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Unlocking The Door:
Changing Societal Views on Domestic Violence

A Senior Honors Thesis in the Department of Government and International Affairs,
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Unlocking The Door:

Changing Societal Views on Domestic Violence

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Honors Thesis
"I pledge..."

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Chapter One:
An Introduction to Domestic Violence Policy and Social Norms

Domestic violence is "Violence toward or physical abuse of one's spouse or domestic partner."[1] Today, the majority of Americans view domestic violence as a crime. It has been called an "insidious demon,"[2] that invades millions of homes every day. The implications of this crime are disturbing as, "for women and children, statistically speaking, the home is the most dangerous place to be."[3] Men who abuse their significant other are now perceived to be in the wrong, and society goes to great lengths to help the victim. Yet there was a time not so long ago when domestic violence was not seen as a crime. As recently as the mid 1980s, domestic violence was accepted, even condoned, by many Americans. It was a "secret" locked behind private doors, and Congress was reluctant to act to combat a growing epidemic of violence in the home. In fact, "legislation proposing a federal response to the problem of violence against women was [not introduced until] 1990, although such violence was first identified as a serious problem in the 1970s."[4]

Prior to the 1990s, domestic violence policy was concentrated at the state and local level. By the 1870s, "wife beating became illegal in most states;"[5] yet even after spousal abuse was legislatively illegal, law enforcement rarely punished offenders, and

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[1] The American Heritage Dictionary of the English Language Fourth Ed. (online: Houghton Mifflin, 2000) "Domestic Violence."

[2] Ruth A. Brandwein, Battered Women, Children, and Welfare Reform (CT: Sage Pub., 1998) 103.

[3] Richard L. Davis, Domestic Violence: Facts and Fallacies (Hartford: Praeger, 1998) 27.

[4] Alison Siskin, Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation CRS Report for Congress (Washington, DC: CRS 23 February 2001) 1.

[5] Jan E. Stets, Domestic Violence and Control (New York: Springer-Verlag, 1998) 2

many women continued to be abused. If offenders were in fact prosecuted, the penalties were often minor. As one study found, "the injuries battered women receive are at least as serious as injuries suffered in many violent felony crimes, yet under state laws they are many times classified as misdemeanors."[6] This was due in part to the fact that "prior to the mid 1970s, the label "wife-abuse" did not exist, academics never studied husband-wife violence, and most persons simply assumed that assaults on wives were rare, not serious, and somehow caused by the women themselves."[7] The focus of domestic violence policy at the state level has been to provide support for victims. In most states, early support for the victims came in the form of shelters for battered women as well as their children. Though, the first contemporary domestic violence statute was passed in Pennsylvania in 1977,[8] the first battered women's shelter was established three years earlier by the Women's Advocates of St. Paul.[9] In Massachusetts, the 1978 Abuse Prevention Act allowed for warrant-less arrests for domestic violence that police did not witness first hand.[10] After the passage of legislation like these statutes, many states began to put through their own domestic violence policies.

Part of the reason that domestic violence was concentrated at the state and the local level was that "in the United States, wife abuse (was) traditionally [...] seen as a

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[6] Margi Laird McCue, Domestic Violence (Denver: Contemporary World Issues, 1995)

[7] Joel Best, Images of Issues: Typifying Contemporary Social Issues (New York, Aldine de Gruyter, 1989) 191.

[8] Richard L. Davis, Domestic Violence: Facts and Fallacies (Hartford: Praeger, 1998) 58

[9] Jan E. Stets, Domestic Violence and Control (New York: Springer-Verlag, 1998) 3

[9] Richard L. Davis, Domestic Violence: Facts and Fallacies (Hartford: Praeger, 1998) 59

[10] Davis, 58

private matter."[11] In an era where the federal government was afraid of overstepping its bounds in the private sphere, it was all but impossible to even attempt to legislatively condemn domestic violence without a political backlash. This traditional view affected not only society's perceptions of intimate abuse, but also that of the justice system and the way it handled incidents. "Within the justice system, tolerance for these crimes was compounded by lack of knowledge about effective strategies for establishing the probable cause or proof required for official intervention and the difficulties in realizing behavioral and attitudinal changes..."[12] One of the greatest areas where the justice system failed victims of spousal abuse was in the police departments. Detective Joseph P. Ryan acknowledged, "In the 1960s and 1970s, [police] practiced 'crises intervention'... Officers would take the men out for a walk around the block to tell them to cool down."[13] Most police departments, (71 percent in 1977), used "Family Crisis Intervention" training, which favored mediation over arrest.[14] In the early 1980s, the police approach to domestic violence continued along these lines. Police wanted "to avoid intervention or arrest on the dual arguments that the offenders would not be punished by the courts even if they were arrested and that an arrest might provoke the abusers into committing more serious violence, sometimes to themselves."[15] Clearly the police did not care about the

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[11] Ethel Klien, Jacquelyn Campbell, Esta Soler and Marissa Ghez, Ending Domestic Violence (CA: Sage, 1997) 6.

[12] Martha Burt, Lisa Newmark, Mary Norris, Daryl Dyer, Adele Harrell, The Violence Against Women Act of 1994: Evaluation of the STOP Block Grants to Combat Violence Against Women (DC: The Urban Institute 1996) 3

[13] Crystal Nix, "For Police, Domestic Violence is No Longer a Low Priority," The New York Times 31 December 1986: B1. (online lexis-nexis 31 March 2000)

[14] Richard L. Davis, Domestic Violence: Facts and Fallacies (Hartford: Praeger, 1998) 57

[15] Davis, 28

victims as much as they did that the abuser, who may potentially harm himself. Like the justice system, the public was reluctant to punish, or even verbally condemn, domestic violence offenders.

Statistics show that the public held nonchalant views of domestic violence. In 1983, a majority of males and 40 percent of women thought wife beating was acceptable in "certain situations."[16] Attempts were made to legislatively change the way the justice system handled domestic violence, however in many areas conservative legislators were able to successfully block such programs due to the reluctance of society in punishing a "private matter". One example of this legislation was H.R. 2977, the "Act to Prevent Domestic Violence", which Congress considered in 1980. The language of the bill proposed $15 million for programs, run by the state and local governments, to combat domestic violence. Most of the money was intended to establish safe houses and shelters for victims of domestic abuse. This bill, which could have been a major breakthrough in combating domestic violence, was never passed. While some blamed budgetary constraints, "the bill was really halted by conservative opposition."[17] Senators, claiming to be "pro-family", continuously opposed the bill saying it was anti-family. One such Senator, Jesse Helms, (R-NC), "claimed that the shelters would promote the disintegration of the family."[18] It was not until the mid-1980s, that government agencies began to conduct studies on the scope of domestic violence, thereby recognizing domestic violence as a public problem.

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[16] Ethel Klien,Jacquelyn Campbell, Esta Soler and Marissa Ghez, Ending Domestic Violence (CA: Sage, 1997) 46

[17] William Stacey, The Family Secret: Domestic Violence in America (Boston: Beacon Press, 1983) 157.

[18] Stacey, 157

The first major federal study devoted to domestic violence was the 1984 Attorney General's Task Force on Domestic Violence, ("the Task Force"), under the direction of Attorney General Edward Meese. The purpose of the Task Force was "to [identify] the scope of the problem of family violence in America" and to make suitable recommendations.[19] At the time the Task Force convened, only ten states had statutes that made domestic violence a specific criminal offense.[20] Due in part to the traditional view that domestic abuse was a private matter, there was reluctance to study the epidemic of family violence. As Assistant Attorney General Lois Haight Herrington put it, "Some members, [of the Justice Department], thought that we probably should not get into it, that it was a private family matter, but they changed their minds."[21] Throughout the year, various experts, as well as victims testified, each one further illustrating the need of federal intervention to put an end to domestic violence. In response, the American Bar Association proposed a plan to curb the epidemic of domestic violence, calling "for shelters or other secure temporary residential facilities for victims of domestic violence;" the ABA also recommended that laws be enacted, and enforced, to ensure the arrest of assailants regardless of their relationship to the victim.[22]

Ultimately, the Task Force came to two main conclusions: (1) "Battery is a major cause of injury to women in America;" and (2) "The only major distinction between

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[19] United States, Justice Department, Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) vi-vii

[20] Nadine Brozan "An Expert Looks At Family Violence" The New York Times 20 May 1984.: Section 1, 62. (online, lexis-nexis, 31 March 2000).

[21] Brozan

[22] "Eight-Part Program to Combat Family Violence," ABA Journal 70.145 (1984). Online, lexis-nexis, 31 March 2000.

family violence and other criminal acts of violence is the relationship between the victim and assailant."[23] Based on their findings, the Task Force had a number of recommendations. The recommendations began with the role of judges in punishing assailants. The Task Force had found there was no consistency in the way domestic violence cases were handled and prosecuted. Thus, the Task Force urged judges to "carefully review and consider the consequences of crime on the victim." Another recommendation was to allow expert witnesses to testify in all domestic violence cases; they added that hearsay from the victim should be admitted in preliminary hearings and the defendant's access to the victim needed to be restricted. Furthermore, they felt guidelines were necessary to efficiently handle cases.[24]

The Task Force also advised communities to develop drop-in crises centers, shelters and safe home networks. The shelters' policies needed to "accommodate the diverse backgrounds of the residents," according to the recommendations.[25] Another suggestion was for the Department of Housing to "place victims on priority listings for public housing."[26] The Task Force finding, "a lack of understanding of the nature of family violence encourages others not directly involved to keep the cloak of secrecy carefully in place,"[27] wanted to prevent abuse, and promote awareness of its consequences. In order to remove this "cloak", the Task Force advised, "The Federal

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[23] United States, Justice Department, Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 11.

[24] United States, Justice Department, Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 43.

[25] United States, Justice Department, 51.

[26] United States, Justice Department, 52.

[27] United States, Justice Department, 65.

government should, in conjunction with the private sector, develop a national family violence prevention and awareness campaign."[28] The "criminal nature of domestic violence, ...the human and economic costs", as well as information on local resources and methods of prevention, including a 24-hour toll-free hotline, would be illustrated in the campaign. In addition to a public awareness campaign, the Task Force felt "the media should publicize local family violence treatment and service programs and provide substantive stories, articles, and programming, educating the public about the problem."[29] This recommendation came from the knowledge that "the power of the printed and broadcast word is great, its influence perhaps immeasurable...the public service announcements in and of themselves are insufficient. Documentaries, news stories and TV movies...are needed."[30] Hard facts about the scope of domestic violence were few when the Task Force held its investigation. As Assistant Attorney General Herrington put it, "what we know is that we don't know anything."[31] He later noted that, "Without being able to note the relationship between the victim and the offender or to determine the age of the victims for all crimes of violence occurring within the family, it is virtually impossible to assess how many of these offenses occurred." Because of this, the group recommended that the FBI should collect data in its Uniform Crime Reports Program

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[28] United States, Justice Department, 64.

[29] United States, Justice Department, Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 64.

[30] United States, Justice Department, 71.

[31] Nadine Brozan "An Expert Looks At Family Violence" The New York Times 20 May 1984. Section 1, 62. online, lexis-nexis, 31 March 2000.

that: "indicates the age of the victim, and the relationship to the offender; and record all family violence, regardless if an arrest was made."[32]

There were also a number of recommendations urging Federal Executive and Legislative action. An increase in the income tax deduction for dependents in order "to recognize the importance of the family and the values it sustains and to continue to relieve the financial pressures on the family,"[33] was among these recommendations. Moreover, the Task Force felt "the Federal Government should provide financial incentives and encouragement to the states to train criminal justice personnel, to conduct a family violence prevention and awareness campaign, and to maintain temporary residential facilities for victims of family violence."[34] The training was suggested "because these officials must play an increasing role in dealing with family violence. Law enforcement officers are usually the first on the scene and must make rapid determinations of how to handle the case."[35] A "walk around the block" was obviously not enough to curb domestic abuse, which is why the new training was suggested.

The Task Force also had a number of legislative recommendations to be implemented at the state level. The states were to "enact laws to permit law enforcement officers to make warrant-less arrests for misdemeanor offenses involving family violence when the officer has probable cause to believe a crime has occurred and the safety of the

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[32] United States, Justice Department,Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 83.

[33] United States, Justice Department, Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 97.

[34] United States, Justice Department, 98.

[35] United States, Justice Department, 99.

family is in jeopardy."[36] The arrests needed to be warrant-less, because there was rarely enough time to obtain a warrant when an incident of domestic violence occurred. Furthermore, a well-publicized Minnesota study found that arrest was the best way to handle a domestic violence situation; and the committee took these findings into account. The study found that "when arrests were made, repeat violence over [a] six month period occurred about half as often as when arrests weren't made. About (ten percent) of the offenders repeated the violence when they were arrested, and 24 (percent) of those who were sent out of the house repeated their violence."[37] In the early 1980s, only ten percent of big city police departments had policies that encouraged arrest at all.[38] States were further advised to "enact legislation making the violation of a protection order issued in a family violence case a criminal offense."[39] They also urged the states to pass legislation that would permit "overnight incarceration of persons arrested for incidents of family violence, in appropriate cases."[40] By incarcerating abusers overnight, the victim would be given a chance to escape her situation, or at the very least the abuser would cool down. Congress responded to these recommendations with the Family Violence Prevention and Services Act, enacted in 1984, which authorized "grant programs aimed at assisting states

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[36] United States, Justice Department, 103.

[37] "Domestic Violence: Making Arrests," The MacNEil/Lehrer News Hour 28 May 1984. Transcript. Educational Broadcasting and GWETA. (Online, lexis-nexis, 31 March 2000).

[38] "Domestic Violence: Making Arrests"

[39] United States, Justice Department,Attorney General's Task Force on Family Violence: Final Report (Justice Department, Sept. 1983) 104.

[40] United States, Justice Department, 105.

in increasing public awareness about and preventing family violence."[41] Funding for the program ranged from a low of $6 million in FY1985 to a high of $62 million in 1997.[42]

Though most of the recommendations made by the 1984 Attorney General's Task Force were not immediately legislatively implemented, the societal boundaries of acceptance of domestic violence began to change in the years following the report. When the report was released, a number of officials made public statements commending the report and urging action. Attorney General William French Smith wanted "the Federal Government [to] provide leadership by focusing the attention of the public and policy makers on the severity of the problems involving family violence." Yet, Attorney General Smith took a step back from revolutionizing the fight against domestic violence, in the same speech, by stating the "the Federal Government should not mandate what to do with parents who abuse their children or spouses who beat their partners."[43] This statement was simply an illustration that while public and government officials recognized spousal abuse as a problem, they continued to accept the notion that domestic abuse was a private matter, a problem that the federal government should rhetorically condemn, but legislatively ignore. This sentiment lasted for another ten years until the Federal Government finally passed significant legislation to stop violence in the home, yet those ten years found many legislative changes at the state level.

Following the release of the report by the Attorney General's Task Force, progress in combating domestic violence occurred at the state level. For example, there

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[41] Alice Butler, "Domestic Violence: Data, Programs and Funding," CRS Report for Congress 14 Dec. 1998: 4

[42] Butler, 4.

[43] Nadine Brozan, "Task Force Urges Action Against Family Violence," The New York Times 20 Sept. 1984: A 25. (online, lexis-nexis, 31 March 2000.)

was a rise in arrests of domestic violence offenders, numerous state anti-domestic violence laws were passed, and there was increased local media coverage of domestic violence. One example of the change after the Task Force can be seen in the 1985 New Jersey court records, which "showed that more than 13,000 complaints of domestic violence were filed with the courts...an increase of about 5,000 cases over the previous year."[44] This rise may be attributed to the Task Force, and local media coverage of its findings, and a recent New Jersey law, which "declared domestic violence to be a serious crime against society."[45]

Still, though complaints were rising in New Jersey, a FBI survey discovered that only one in ten women nationwide notified authorities when domestic abuse occurred.[46] The findings of this survey suggest that domestic violence continued to be underrepresented in victim statistics. When a victim did report an incident of battering, they often found there was little the legal community would do to help them. All too often, police continued to respond to a domestic violence case with a simple "walk around the block," a practice that did little to protect the victim. In an attempt to protect victims of domestic violence, the New York City Police Commissioner, Benjamin Ward, issued guidelines that mandated arrests in domestic disputes.[47] The recommendations of the Task Force were part of the reason these guidelines were released in April of 1985.

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[44] Valerie James, "Domestic Violence Cases up 50%," The Record 28 Feb. 1985: C01. (online, lexis-nexis, 31 March 2000.)

[45] Valerie James, "Domestic Violence Cases up 50%," The Record 28 Feb. 1985: C01. (online, lexis-nexis, 31 March 2000.)

[46] James. Online

[47] William R. Greer, "Police Have Changed Their Approach to Family Disputes," The New York Times 25 March 1985: B2. (online, lexis-nexis, 31 March 2000)

Only a month after the guidelines took effect, "the police [had arrested] nearly twice as many men for assaulting their wives or girlfriends as in the same period the year before."[48] Ten states enacted legislation requiring revised police training standards, per the recommendations of the Task Force, by October of 1985; Connecticut was but one example. Connecticut's law, "which went into effect October first, required all police officers to receive two hours of training in handling domestic violence cases."[49] This training was to follow the suggestions of the Task Force and promote arrest over traditional mediation. Two years after the Task Force's investigation, a private research organization found, "the number of police departments encouraging their officers to make arrests in cases of minor domestic violence had tripled in just one year... 44 cities of more than 100,000 people surveyed in 1985 had policies encouraging arrests...up from 14 cities in 1984."[50] Still, while the arrests were going up there was little change in the prosecution of offenders. A 1990 St. Louis study found that while "the number of people arrested for abusing their spouses had increased dramatically under [their] state law...the law [brought] little change in the chances for prosecution and counseling of abusers."[51] In 1992, a five-year review of the Connecticut Superior Court "indicated about 75 percent of the family violence cases it disposed of each year resulted in charges being dismissed

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[48] Greer , online

[49] Charlotte Libov, "Domestic Violence Focus Of Training," The New York Times 27 Oct. 1985: 11CN1. (Online,. lexis-nexis, 31 March 2000.)

[50] Associated Press, "Domestic Violence Arrests Sharply Up," The Christian Science Monitor 27 Jan. 1986: National 4. (online, lexis-nexis, 31 March 2000)

[51] Carolyn Bower, "Sobering Report: Arrests Up For Spouse Abuse Under New Law," St. Louis Post-Dispatch 18 Jan 2000: News 1. (online, lexis-nexis, 31 March 2000)

or not prosecuted."[52] Fortunately, though there was little change in the prosecution of abusers, society as a whole began to realize that the costs of domestic violence were high. Due in large part to the shift in society's acceptance level of domestic violence, Congress began to look at ways to legislate a strict norm that would prosecute violence against women.

Prior to 1990 there was little action taken at the federal level to address the problem of domestic violence, with only a few minor programs that looked at the issue. The Office of Domestic Violence (ODV), "established in the spring of 1979, was the only federal agency making an attempt to monitor domestic violence on a national scale."[53] President Carter had established the ODV to serve as a national clearinghouse and center for the dissemination of information, focusing on public awareness activities and grants for community services. Yet the severely under-funded center was closed in 1981, due to further budget cuts and a general lack of support. For the most part, federal action to curb domestic, or for that matter any, violence against women was non-existent. One of the greatest challenges facing anti-domestic violence organizations in the 1980s was overcoming government bureaucracy. Much of this bureaucracy came from conservative "pro-family" members of Congress who wielded their power to stop funding for women's shelters. An example of the power of this type of conservative opposition occurred in 1985. Per the Attorney General's Task Force of 1984's recommendations, the National Coalition Against Domestic Violence (NCADV) was to implement a number of programs suggested by the report of the Task Force. The NCADV was to receive a federal grant of

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[52] Susan Pearsall, "Connecticut Q&A: Anne Menard; When Victim and Offender Share a Home," The New York Times 22 November 1992: 13CN, 3. online lexis-nexis, 31 March 2000.

[53] William Stacey, The Family Secret: Domestic Violence In America (MA: Beacon, 1983) 160.

$625,000 to help fund these programs. "Funding was to support such critical services for battered women and their children as improvement of shelters, creation of an information and referral network for the victims, and development of better law enforcement strategies to combat the problem.[54] However, conservatives in Congress conducted a campaign against the grant. Twenty-four members of Congress wrote to Attorney General Meese complaining that "the NCADV people were now a "pro-lesbian, pro-abortion, anti-Reagan, radical feminist group.""[55] Why the sexual orientation, or political alignment, of volunteers mattered in order to receive a grant for shelters was beyond comprehension to many women's advocates. Yet the right-wing coalition was able to temporarily block all funding to the NCADV with their accusations. The head of the NCADV, former Assistant Attorney General Herrington, was forced to pledge writing that "none of the money would be used for lesbian causes."[56] After his pledge the NCADV did receive a grant, however, it was reduced from the original $625,000 to $293,904.[57] Though their funding had been reduced, the NCADV and associated groups did not give up hope that one day Congress would fully accept the fact that spousal abuse was a problem.

By 1987, Congress was slowly moving to accept domestic violence as a problem and thus began examining the issue closer. In September of 1987, the Committee on

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[54] Patricia Schroeder, "Justice Department Should Release Family Violence Grant," (Cong Rec H 5629: Monday, July 15, 1985) 131

[55] Ellen Goodman, "Battering the Truth," The Washington Post 13 July 1985: A19. online, lexis-nexis, 31 March 2000.

[56] Associated Press, "Delay of Federal Funds for Battered Women Ends," The San Diego Union-Tribune 10 August 1985: A-5. online, lexis-nexis, 31 March 2000.

[57] Associated Press, "Delay".

Children, Youth and Families House held the first hearing on "Women, Violence and the Law."[58] The agenda was to discuss experiences with domestic violence and the difficulty of receiving adequate legal protection services.[59] Two formerly abused women were witnesses whom testified about their own experiences with abuse and as well as their personal experiences with the difficulty of receiving legal protection to end the abuse. Three lawyers supplemented the testimony of the abused women with an "examination of marital rape, domestic violence, and other violence against women in the U.S.; potential negative effects of domestic violence; recommendations for programs to ensure adequate prevention of and response to domestic violence."[60] The hearing gave the committee members insight into the problems facing victims of domestic abuse, and the need for society to recognize domestic violence as a problem. It was in light of this need that on October 29, 1987 Bob Carr (MI) acknowledged Domestic Violence Awareness Month.[61] Though Representative Carr stated that "the recognition of October 1987 as National Domestic Violence Awareness Week is an important reminder that a significant number of American women and children are at risk in their homes every day, and they deserve our Protection and our understanding,"[62] he did not provide any solutions or suggestions

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[58] Committee on Children, Youth, and Families, Select. House. "Women, Violence, and the Law," congressional hearing. (CIS-NO: 88-H961-43, 16 Sept. 1987)

[59] Committee on Children, Youth and Families.

[60] Committee on Children, Youth, and Families, Select. House. "Women, Violence, and the Law," congressional hearing. (CIS-NO: 88-H961-43, 16 Sept. 1987)

[61] Bob Carr, "National Domestic Violence Awareness Month" (133 Cong Rec E 4254: 29 Oct. 1987)

[62] Carr.

for curbing the epidemic of domestic violence that faced the nation. Indeed it would be three years before Congress considered a bill to curb the epidemic of domestic violence.

Once domestic violence was finally "discovered" by Congress in 1990, official recognition and congressional exploration of the epidemic of violence proliferated. Yet this recognition did very little to quell the problem nor was any significant legislation passed. Of the 5,745 women murdered in 1991, six out of ten were killed by someone they knew personally. Their spouse or intimate partner murdered one half of those women. .[63] The news media had begun to pick up on the stories of these women who died needlessly. Yet women continued to be turned away from shelters, their batterers continued to receive minor slaps on the wrists, as the victims faced gender bias by the police discrimination in the courts.

Instead of addressing domestic violence in society, Congress chose to first combat inadequacies in the justice system. One of the first steps Congress took in the early 1990s to overcome ignorance in the courts of the complexities of domestic violence cases was the Battered Women's Testimony Act (H.R. 1252), introduced in March 1991 and passed in October 1992. This act focused on the "new" idea of battered women's syndrome. As Mr. Brooks (then Chair of the House Committee on the Judiciary) put it, "The central phenomenon surrounding H.R. 1252 is the "battered woman syndrome" (BWS) and our society's response to it."[64] The Act authorized the State Justice Institute to "analyze and disseminate information regarding the admissibility and quality of testimony of witnesses

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[63] Mark L. Rosenberg, M.D, "Testimony, before the Subcommittee on Human Resources and Intergovernmental Relations Committee on Government Operations. US. House of Representatives." 5 October 1994. online, Congressional Universe , 24 February 2001.

[64] Mr. Brooks, from the Committee on the Judiciary, "Battered Womens Testimony Act of 1992," House Report 102-991 3 October 1992: 102 H. Rpt. 991.(online, Lexis-Nexis, 27 January 2001.)

with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony in criminal trails of battered women."[65] This act was eventually signed into law, and helped to promote the acknowledgment of battered woman's syndrome by the criminal justice system, yet it resulted in only a slight rise in national media coverage of domestic violence.[66] In the months following passage of the act, the Battered Woman Syndrome defense was implemented throughout the United States. As Sue Peterson Armstrong of the Florida Coalition Against Domestic Violence stated in December of 1992, "It (was) now being recognized there is a reason a woman commits a crime. She was a victim of a crime long before she committed a crime."[67] This recognition of why women were acting out against their long-term abusers sparked only a low-key national debate on the problem of spousal abuse.

Around the same time that Battered Woman's Syndrome was recognized, a wave of violent crime was sweeping the nation. In response, some members of the House proposed establishing a House Select Committee on Violence, which would look at youth, gang, and other forms of violence including spousal abuse. The committee was to look at solutions to the violence epidemic. Perhaps, then Representative, Barbara Boxer, (D-CA), put the need for the committee, in relation to domestic violence, best when at a news conference announcing the proposed committee she stated, "When you have an

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[65] Mr. Brooks.

[66] Please see Graph "Total Number of Domestic Violence Stories in the Washington Post and New York Times 1990-1994

[67] Deborah Sharp, "Battered women who killed mates fight for freedom," USA Today 7 December 1992 final ed.: 12A. Online, Lexis-nexis, 27 March 2001.

epidemic in a country you need to fight it. And you need to fight it in two ways. You need to treat it, and then you need to prevent it ... The Violence Against Women Act is a very good first step, but we need to go far beyond that."[68] In Boxer's view the Select Committee was an ideal vehicle to go beyond the simple language of the then proposed Violence Against Women Act of 1992 (VAWA 1992). The committee was to look at the causes of the violence, not simply to propose new punishments for the acts committed (such as those proposed in VAWA 1992). Boxer went on to further explain the need of the committee to look at violence against women: "We have to look at what's happening, for example, to women in this society in domestic relationships where there's just a tremendous amount of violence. We haven't really looked at that. Women in this country have really lost a lot of their freedom. Their freedom to just live, to walk, I mean there's a gender gap of violence."[69]

Though progress continued to be made in the fight to combat domestic violence at no point in the early 1990s did it appear that significant legislation would be passed. For four years legislation entitled the Violence Against Women Act was proposed in the Senate and the House yet the legislation generally languished in committees. Without a significant public mandate, arising from a well publicized case, the bill would take years to overcome Congressional red tape. This climatic event would come in the form of a celebrity murder. In 1994 OJ Simpson would be accused of taking the life of his ex-wife

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[68] Barbara Boxer, "Statement at News Conference Re: Establishment of a House Select Committee on Violence" Commerce and Trade Speeches or Conferences. Federal News Services 5 March 1992. (online, congressional universe, 24 Feb. 2001).

[69] Barbara Boxer, "Statement at News Conference Re: Establishment of a House Select Committee on Violence" Commerce and Trade Speeches or Conferences. Federal News Services 5 March 1992. (online, congressional universe, 24 Feb. 2001).

Nicole Brown Simpson, creating a media frenzy that would ultimately lead to a shift in the norm which allowed acceptance of domestic violence. This shift in norms, from passive acceptance to active disapprobation of domestic violence, stemming from the OJ Simpson media coverage would give the Violence Against Women Act of 1994 the momentum it needed to pass.

Chapter Two:
The Violence Against Women Acts

Women's advocates, beginning at least with the origins of the women's movement, had called for legislation to punish spousal abusers. Yet for years little legislation was proposed and no significant legislation was passed. As states began to confront the issue of domestic violence there was increasing pressure for Congress to pass significant workable legislation. As discussed earlier, following the release of the Attorney General's Report of 1984 Congress passed some minor pieces of legislation in favor of battered women. Still much more needed to be done to ensure that crimes within families were treated as crimes. By 1990 some major political players knew that more needed to be done to protect battered women. These major players saw change possible with the Violence Against Women Act (VAWA). Still the first three times the VAWA was introduced, in both the House and the Senate, the bill made little progress.

The first major piece of legislation to curb domestic violence in the Senate came within The Violence Against Women Act of 1990 (VAWA); Title II of this act, "The Safe Homes for Women Act of 1990", specifically covered domestic violence. Title II was designed to increase protections against abuse, allocated funding for battered women's shelters and sought to improve the existing family violence prevention and treatment services. Sec. 2261 established new fines and punishment guidelines, the fines were between $1,000 and $2,000 and the prison terms were a year or less.[70] Sec. 221 sought to encourage arrest policies by withholding grant monies if "as a matter of policy or law, [a state or locality], discriminates against victims of family violence by

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[70] Joseph Biden, "Violence Against Women Act of 1990," S. 2754. 101st Congress. 19 October 1990

prohibiting or discouraging the arrest of persons committing family violence."[71] The bill was introduced on the 19th of June, 1990 by Senator Joseph R. Biden (D-DE), and gained 25 cosponsors, (22 Democrats and 3 Republicans). On the date of introduction the bill was referred to the Senate Judiciary Committee. Senator Packwood requested to be removed as a cosponsor of the bill on the 22nd of June 1990 for an unknown reason. In October the Senate Judiciary Committee sent the bill to the floor with an "amendment in the nature of a substitute."[72] Though the bill, as amended by the Judiciary Committee, was reported in the Senate, the bill was never voted on and thus not enacted.[73] In the House the bill was slightly different from the Senate's VAWA in 1990, though its purpose "to combat violence and crimes against women on the streets and in homes" was the same.[74] The House version was entitled "Combating Violence and Crimes Against Women," and introduced by Representative Barbara Boxer on the 3rd of August 1990. Though the House bill had 68 cosponsors there was simply not enough momentum to push the bill out of the five committees, (Judiciary, Public Works and Transportation, Interior and Insular Affairs, Energy and Commerce, and Education and Labor), it was referred to at introduction. A major reason the bill did not make it out of committee was that there was little public pressure to pass the bill. A search of major newspapers found only one story mentioning the bill in 1990, and the focus of this story was not on the spousal abuse protections in the VAWA, but on the penalties for rape. Clearly the

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[71] Joseph Biden, "Violence Against Women Act of 1990," S. 2754, 101st Congress. 19 October 1990

[72] Joesph Biden, "Violence Against Women Act" 1990 Bill Tracking S. 2754. (online lexis-nexis 15 January 2002)

[73] Biden, Bill Tracking S. 2754

[74] Barbara Boxer D-CA, "Combating Violence & Crimes Against Women," 1990 Bill Tracking H.R. 5468. (online lexis-nexis 15 January 2002)

VAWA was not deemed significant by the majority of Congress in 1990, but its sponsors vowed to try again.

Senator Biden tried again in 1991 to get the VAWA through the Senate, however it received much the same attention as in the previous year. The bill was again referred to the Judiciary Committee and sent to the floor of the Senate but never voted on. The only changes from the previous bill were additional cosponsors, 55 in total. Additionally four Senators gave remarks on the floor in reference to the VAWA, in contrast none had placed their remarks in the Congressional Record regarding the 1990 bill.[75] The House version was introduced as the "Violence Against Women Act of 1991."[76] The only change in action from the 1990 bill was an increase in cosponsors to 211, from 68, yet again it did not make it out of the committee process[77] As before lack of public pressure was a factor that allowed the VAWA to languish A VAWA editorial in the Seattle Times called for "national action...to stop domestic violence," though again the main focus was on the rape portions of the law and not of spousal abuse.[78] Another article appeared in the Christian Science Monitor urging passage of the bill, though again more emphasis was put on the rape measures and not those of spousal abuse.[79] In all, only four stories in major newspapers focused on the Violence Against Women Act, and three additional articles mentioned the act. All of those that covered the VAWA focused on the rape

[75] Joseph Biden, "Violence Against Women Act of 1991," 1991 Bill Tracking S.15. (online lexis-nexis 15 Jan. 2002)

[76] Barbara Boxer, "Violence Against Women Act of 1991" 1991 Bill Tracking Report H.R. 1502 (online lexis-nexis 15 January 2002)

[77] 1991 Bill Tracking H.R. 1502

[78] Jim McDermott, "National Action is Needed to Stop Domestic Violence," The Seattle Times 6 June 1991. A19 (online, lexis-nexis 1 February 2002)

[79] Elizabeth A. Brown, "Legislation Aims to Aid Victims of Rape and Abuse," The Christian Science Monitor 1 April 1991. "The U.S. " 9 (online lexis-nexis 1 February 2002)

aspects of the bill rather than the spousal abuse portions. Thus the outlook for the VAWA appeared bleak in the coming Congresses.

The Violence Against Women Act of 1993 faced similar prospects as the two preceding bills. As with the previous versions of the VAWA there was little press, and the press there was focused on the rape aspects of the law, not spousal abuse. In the Senate the bill gained more cosponsors, bringing the total to 67, though again the act was not passed. In the House action more progress was made, as on November 20th, 1993 the House voted to pass the bill, which was then referred to the Senate Judiciary Committee.[80] While the VAWA languished in the Senate progress was being made in convincing the Senate that such an act was needed. Congress found itself faced with grim statistics about the "gender gap of violence." Through hearings, Senators and Representatives learned that in 1993 a woman was being beaten every fifteen seconds by a husband or boyfriend.[81] Those who were not drawn to the cause morally were often persuaded by the financial costs of the epidemic. Employers were losing three to five billion dollars a year in worker absenteeism related to violence against women.[82] Statistics like these inspired the Senate sponsors to include what would become the most controversial aspect of the VAWA legislation, Title III. This controversial measure would create a new category of civil rights – those of gender. This portion was included only in the Senate version and had been taken out of the House version. Thoguh the

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[80] Patricia Schoroeder, 103 Bill Tracking H.R. 1133, "Violence Against Women Act of 1993" (online lexis-nexis 15 Jan. 2002)

[81] Sally Goldfarb "Statement of NOW legal Defense and Education Fund on the Violence Against Women Act. H.R. 1133" House Judiciary Civil & Constitutional Rights hearing: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. (online, lexis-nexis, 24 February 2001)

[82] Goldfarb.

Senate version did not come up for a vote. Many groups and experts would testify before Congress regarding Title III both for and against the provision.

Many of those who spoke out against the provision felt that the provision was too broad. One such witness was the Honorable Vincent L. McKusick, president of the Conference of Chief Justices. The judge testified that while the Conference of Chief Justices generally supported the act, they did not support the civil rights provision that they felt "...could, as currently drafted, cause major state-federal jurisdictional problems and disruptions in the processing of domestic relations cases in state courts."[83] In her statement before Congress, Elizabeth Symonds explained, "we (the ACLU) believe that Title III of the bill, which creates a new federal right to be free from crimes of violence motivated by gender, raises a number of legal and policy questions, which prevent us from supporting this aspect of the legislation."[84] Yet, while the ACLU did not support Title III, it did support the majority of the VAWA. As stated previously, one of these "legal and policy questions" was if the wording in the civil rights provision was too broad to stand legal tests. As Ms. Symonds noted "...the standard set forth in the bill...does not make clear the requisite intent or motive that the perpetrator must have had when committing the crime...Because the standard is so vague, we (the ACLU) fear that it will simply create massive confusion or litigants, judges, and juries involved in these

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[83] Vincent L. McKusick, Hon. "Statement before the United States Senate Committee on the Judiciary" House Judiciary Civil & Constitutional Rights hearing: "Violence Motivated By Gender," Federal Document Clearing House, Inc. 16 Nov. 1993. (online, lexis-nexis, 24 February 2001.)

[84] Elizabeth Symons, "Testimony of the American Civil Liberties Union" House Judiciary Civil & Constitutional Rights rights: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. (online, lexis-nexis, 24 February 2001.)

lawsuits."[85] Yet many that testified before both the Senate and the House did not feel the wording was too broad, or that the act would impose an undue burden on the States.

One of the groups that testified in favor of the VAWA and the civil rights provision was the National Association of Women Judges. Speaking on behalf of National Association of Women Judges (NAWJ), association President Judith Billings stated, "The NAWJ is especially sensitive to the need for Congress to recognize the problem of violence against women in order to complement the ever increasing work load of state courts in areas of traditional state court concern in criminal, personal injury and domestic relations law."[86] Though she acknowledged that the state court's workloads were increasing, Ms. Billings and the NAWJ favored the civil rights provision and did not feel it would place an undue burden on the state courts. In Ms. Billings' opinion, the civil rights provision would in fact complement this workload, in her words:

> the civil rights provision you are considering include a number of measures which the NAWJ believes help ensure this complementary role, and help avoid the risk of overloading the federal courts with disputes that fall within traditional state court functions. The provisions in the Bill which help accomplish this include (1) limited the actionable crimes of violence to felonies; (2) excluding domestic relation matters, including custody, dissolution and property settlements; (3) providing for concurrent jurisdiction in federal and state courts coupled with the express limitation that actions brought in state court may not be removed to federal court; limiting the actionable conduct to crimes against a person rather than property; and (5) excluding random acts of violence unrelated to the gender while limiting the federal remedy to those cases in

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[85] Elizabeth Symons, "Testimony of the American Civil Liberties Union" House Judiciary Civil & Constitutional Rights rights: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. (online, lexis-nexis, 24 February 2001.)

[86] Judith Billings "Testimony" House Judiciary Civil & Constitutional Rights: Violence Motivated By Gender 16 November 1993. Federal Document Clearing House, Inc. 1993. (online lexis-nexis 24 February 2001)

> cases which some gender based animus can be demonstrated"[87]

As Ms. Billings noted, the judges felt the provision was limited enough to not violate the Fourteenth Amendment. Similarly, the justice department did not feel that the civil rights provision would cause confusion on behalf of attorneys, and in fact sent Acting Assistant Attorney General James P. Turner to testify before Congress in support of the VAWA in its entirety. Mr. Turner testified that, "In recent years, our society has become increasingly aware of the distinct problems that violence poses for women and the difficulties that women face in obtaining justice after such violence occurs. While Congress has enacted numerous civil remedies for victims of discrimination in other contexts, there is no comparable federal civil remedy for victims of gender-motivated violence. We support the effort to create such a remedy..."[88] While support for the civil rights provision came from across the legal community, perhaps the most enthusiastic advocates were women's groups.

The National Organization of Women (NOW) was just one of the advocacy groups that lobbied extensively for the VAWA. Sally Goldfarb testified before Congress on behalf of the NOW Legal Defense and Education Fund; in her testimony, Ms. Goldfarb stated that Title III of the act was a major step forward for women's equality.[89]

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[87] Judith Billings "Testimony" House Judiciary Civil & Constitutional Rights: Violence Motivated By Gender 16 November 1993. Federal Document Clearing House, Inc. 1993. (online lexis-nexis 24 February 2001)

[88] James P. Turner "Statement of James P. Turner Acting Assistant Attorney General Civil Rights Division." House Judiciary Civil & Constitutional Rights hearing: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. online, lexis-nexis, 24 February 2001

[89] Sally Goldfarb "Statement of NOW legal Defense and Education Fund on the Violence Against Women Act. H.R. 1133" House Judiciary Civil & Constitutional Rights hearing: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. (online, lexis-nexis, 24 February 2001)

Ms. Goldfarb felt that gender-discrimination was as great of a problem as other forms of discrimination. In her testimony, Ms. Goldfarb argued, "when half the members of our society are at greater risk of terror, brutality, serious injury and even death just because they are female, that is a form of discrimination. Moreover, violent attacks reinforce and maintain the disadvantaged status of women as a group."[90] In response to the ACLU's argument that the statue was unclear, Ms. Goldfarb gave that "We (the NOW Legal Defense and Education Fund) that the definition of "crime of violence motivated by gender" furnished in the bill is clear, workable, and sound public policy."[91] Yet in Ms. Goldfarb's mind, the criminal and civil implications of the provision were not as important as that the "enactment of civil rights legislation would convey a powerful message: that violence motivated by gender is not merely an individual crime or a personal injury, but is a form of discrimination, an assault on a publicly-shared ideal of equality." At the time of these hearings it did not look as if the VAWA would become law.

When the House requested the concurrence of the Senate on H.R. 3355, the "Violent Crime Control and Law Enforcement Act 0f 1994" the house version of the VAWA was included in the language. At the time the Senate had allowed their version of the VAWA, the version which included gender based civil rights, to languish on the floor. Few felt at the time felt that VAWA was a significant part of the crime control legislation, or that it would become a major driving force to pass the omnibus bill. In a December 1993 Roll Call article did not include the VAWA measures as part of the "war

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[90] Sally Goldfarb "Statement of NOW legal Defense and Education Fund on the Violence Against Women Act. H.R. 1133" House Judiciary Civil & Constitutional Rights hearing: "Violence Motivated By Gender" Federal Document Clearing House, Inc. 16 November 1993. (online, lexis-nexis, 24 February 2001)

[91] Goldfarb

on crime" the House was raging.[92] Little mention was made on the VAWA provision of the bill when it was considered for passage in the Senate. It was not until the middle of May that Senator Biden demanded that the Senate insist on a VAWA that included gender based civil rights during conference with the House.[93] Still the VAWA, now included in the omnibus Crime Bill, the act simply did not have the exposure it would need to come out of the joint-conference committee with Title III in tact. This exposure, and nationwide pressure would explode with the break of one of the most sensationalized crimes of the 20th century.

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[92] Jim Sensenbrenner, "It's Time to Parole the Crime Bill," Roll Call (6 December 1993) Agenda Ahead Policy Briefing: Issues of'94 – Dec. 6, 1993.

[93] Jack Brooks, 103 Bill Tracking H.R. 3355; 1993 Bill Tracking H.R. 3355; "Violent Crime Control and Law Enforcement Act,"

Chapter Three:
A Fallen Hero and New Heroine

As the 1994 legislative year began the Violence Against Women Act (VAWA) was receiving a similar audience as it had throughout its' six year history and few believed that this would be the year the bill passed. While, six years of testimony and campaigning on the part of the VAWA's sponsors had convinced a number of members of Congress that domestic violence was an epidemic, there was simply not enough demand to push VAWA through Congress. The public needed to show overwhelming support in order for some members of Congress to feel comfortable legislatively condemning a matter that skeptics still referred to as a "private" family matter. Unbeknownst to these skeptics a public mandate to confront the issue would come in the middle of the year. This outcry would come in the form of anger over one of the first major events of 1994, the June arrest, and subsequent trail of O.J. Simpson, for the murders of his ex-wife, Nicole Brown Simpson, and her friend Ronald Goldman. "In the streets, on cafeteria lines, at picnic tables—Simpson (was) all you hear(ed). The story own(ed) Page 1 and dominate(d) television."[94] As Larry King put it, "You (knew) O.J. Simpson's face like you (knew) your own."[95] The public was first horrified by the brutality of the murders; and later transfixed by the image of a fallen football hero traveling slowly down a Los Angeles freeway with a gun to his head as camera crews covered all 60 miles of the infamous chase. O.J. Simpson, a football hero, wannabe actor, and celebrity was charged with murder. Authorities and the media demonstrated a

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[94] Fred Bruning, "Wife Beating – A Nation's Obsession," MacLean's An American View p11. Maclean Hunter Limited, 25 July 1994. (online lexis-nexis 12 November 2001)

[95] Larry King, "Bob Costas on the O.J. Simpson Tragedy," Larry King Live CNN transcript number 1151, 20 June 1994. (online lexis-nexis 25 January 2002)

history of domestic violence as part of their evidence against him, and made the tapes of Nicole's pleading calls for help to 911 public. O.J. Simpson pleaded not guilty to the charges against him just six days after the death of his ex-wife. As O.J. awaited his trial around the world people began to listen to Nicole's frantic voice pleading for the police to come and stop her abusive husband. The people learned that during the couple's seven year marriage, police were called to the residence nine times on allegations of abuse.[96] They soon learned of the lenient sentence Simpson received in 1989 for severely beating his wife. While wives of sports heroes had claimed abuse before these stories were often only short items hidden away in the Sports section. Simpson's arrest in 1989, for example, appeared in the eighth page of the sports section in the Los Angeles Times in the story there is no condemnation of Simpson though authorities quoted Simpson as telling Nicole "I'll kill you" and her face was visibly bruised and scratched.[97] When Simpson was sentenced for the 1989 beating, the Los Angeles Times spent only 100 words mentioning the conviction and "the Heisman Trophy winner's" plead of no contest .[98] In 1989 the media simply did not profess that domestic violence was a severe problem in America and it certainly did not overshadow their admiration for "The Juice". In the mind of the public, as well as that of the media, football heroes just did not intentionally hurt people especially not women they loved. The murder of Nicole Brown Simpson

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[96] Patricia Edmonds "A Call to Arms Against Spouse Abuse," USA Today 23 June 1994: 03A (online, Dow Jones Interactive 5 December 2001)

[97] Associated Press, "O.J. Simpson Accused of Beating Wife," The Los Angeles Times 2 February 1989 Sports Part 8, p8 column 6, (online lexis-nexis 15 January 2002)

[98] Times Wire Services, "O.J. Ordered to Undergo Counseling," The Los Angeles Times 24 May 1989: A1. (online lexis-nexis 15 January 2002)

opened the eyes of the public, and consequently those of Congress, to a long ignored problem, domestic violence in America.

Critics called the vast coverage of domestic violence "an irritating by-product of the O.J. Simpson Trail."[99] "Irritating" or not mainstream national coverage of domestic violence exploded, forcing people to examine the problem, change their perceptions of domestic violence and demand the government work to end abuse. Domestic violence was a bigger problem than they had realized. The public was appalled at the slap on the wrist Simpson had received for his earlier domestic violence charges. In fact 52 percent of the public believed that if the court had taken stronger steps against O.J. in 1989, the murders of Nicole Brown Simpson and Ronald Goldman could have been avoided.[100] Moreover 60 percent of Americans felt that the allegations of spousal abuse in Simpson's marriage were relevant to the case and should be presented to the jury.[101] While only 42 percent of Americans had previously felt that domestic violence was a very serious problem in the country before the murders,[102] 64 percent felt it was a very serious problem just four days after the murders.[103] A large reason for this change in opinion resulted from hearing the name O.J. Simpson, an American hero, linked to domestic violence. By early October, his name had been mentioned more than 15,000 times by the

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[99] Katherine Dunn "Truth Abuse: The Media's Wife Battering Hype," The New Republic v211 n5 (1 August 1994): 16 (online Expanded Academic ASAP 31 March 2000)

[100] Roper Center, "Accession Number 0219316, Question number 009" Public Opinion Online,. Roper Center at the University of Connecticut. (1995) (online, lexis-nexis 14 October 2001).

[101] Roper Center, "Accession Number 0228544, Question Number 019," Public Opinion Online Roper Center at the University of Connecticut (1995). (online lexis-nexis 14 October 2001).

[102] Roper Center, "Accession Number 0062534, Question Number 006," Public Opinion Online Roper Center at the University of Connecticut: (1995). (online lexis-nexis 14 October 2001).

[103]Roper Center, "Accession Number 0216836, Question Number 001," Public Opinion Online, Roper Center at the University of Connecticut: (1995). (Online lexis-nexis 14 October 2001).

media since the murders.[104] During the trail alone, with 150 million people on average watching, the name of Nicole Brown Simpson was mentioned nearly 7,000 times, and many more times in other media coverage.[105] The Simpson story, in 1994, was covered for nearly 27 hours as the top story on network news, surpassing coverage of the other top stories of the year combined. Experts felt that numbers like this showed that the murder of Nicole Brown Simpson would be to domestic violence what Anita Hill was to sexual harassment. Others compared the case to other events that increased public awareness, like "Magic Johnson's announcement that he was HIV-positive (which) increased public awareness of AIDS, so, too, ha(d) the abuse that Nicole Simpson suffered at the hands of one of our best-known and best-liked athletes focused much-needed attention on the subject of violence toward women...."[106] Because O.J. Simpson was so well liked, so well known, his trial and the reasons behind the charges against him received wide media coverage and with each story Congress felt increasing pressure to pass the strongest form of the VAWA.

The case drew nation-wide, and in fact worldwide, attention not only to the murder trial, but also to domestic violence. This is not to say that the media had never mentioned domestic violence before the arrest of Simpson, the problem was that few members of the public, or mainstream media, heeded their cries. The media admitted that

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[104] Betsy Streisand, "Can He Get a Fair Trial?" U.S. News & World Report Vol. 117, NO. 13: (3 October 1994) 56 (online lexis-nexis 12 November 2001)

[105] Jennifer Seter, Timothy M. Ito, and Robin M. Bennefiled "Simpson Trial and Trivia" U.S. News & World Report (16 October 1994). (online lexis-nexis 12 November 2001)

[106] William Oscar Johnson "A National Scourge," Sports Illustrated v80 n25: (27 June 1994) 92. (online lexis-nexis 29 March 2000).

"the killing of Nicole Brown Simpson ha(d) attracted unusual publicity."[107] After the O.J. Simpson's arrest, mainstream media began to take the issue seriously, and "The most prominent news stories convey(ed) shock at discovering this widespread social problem."[108] Yet, it was not that the media discovered domestic violence with the Simpson case, but that they looked at domestic violence in a new light. The media began to cover domestic violence in the 1970s, though such coverage was often hidden amongst other more "pressing" issues. Before the arrest of Simpson media coverage of domestic violence focused on the victim, and her reasons for not leaving, often blaming her for the abuse. This was illustrated only a year before the Simpson case with the Lorena and John Bobbitt case. Lorena claimed that her husband's repeated abuse and rape led her to cut off her husband's penis. The case received a great deal of sensational media coverage, but reports seldom focused on the abuse in the marriage, and rather, in the words of 20/20 reporter Tom Jariel, on the "unspeakable act" Lorena committed.[109] When the story was written about, Lorena's accusations of abuse by John were "alleged", while reporters stated that she had cut off her husband's penis, before she was convicted of such an act in a court of law. In a story that was supposed to focus on Lorena's testimony at the trail against John, the story ended describing the "9 ½ hours of surgery" needed to reattach his organ, and that it would take months before doctors would know if "Bobbitt (could)

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[107] Tamar Lewin, "The Simpson Case the Syndrome, Case Might Fit a Pattern of Abuse, Experts Say," The New York Times (19 June 1994) Section 1, 21. (online lexis-nexis 24 January 2002)

[108] Wendy Kozol, "Fracturing Domesticity: Media, Nationalism, and the Question of Feminist Influence," Signs v20 i3 (Spring 1995) 646. (online University of Chicago 28 February 2000)

[109] Kozol

recover sexual function."[110]. The Wall Street Journal focused on the "celebrity" urologist who reattached the penis.[111] The debate in the media "narrowly addess(ed) the ethics of a woman's "unspeakable" act of fighting back. The central drama of this story was the crime of castration, not why it was committed."[112] When the story by-line focused on Lorena the story was generally pushed into the middle sections of the paper, when the story focused on John Bobbitt, it often made the front section, if not the front page. When the charges against both Lorena and John appeared in the press, Lorena's accusations that he forced her to have sexual intercourse with him, and to have and abortion, made the Metro section of the Washington Post .[113] When John Bobbitt testified at his trail for marital sexual assault, the Washington Post put the story on the front page, focusing on John's testimony of the "pain" he encountered, and his denial of raping his wife.[114] The day before, when Lorena had testified the Post focused on her responses to why she did not leave when she had the opportunity, and that John shook his head during the testimony, as if to say she was lying.[115] Most of the media appeared to be on the side of John. Tom Jariel of 20/20 titled his story on the Bobbitt story "Beyond

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[110] Carlos Sanchez, "Lorena Bobbitt Tells of Forced Sex, She testifies that Repeated Violence Drove Her to Cut Her Husband," The Washington Post: (9 November 1993), A1. (online lexis-nexis 18 January 2002)

[111] Alice Kahn "The Bobbitt's: Post-Freudian Sex Symbols?" The San Francisco Chronicle.: (27 October 1993) E7, (online lexis-nexis 18 January 2002)

[112] Wendy Kozol, "Fracturing Domesticity: Media, Nationalism, and the Question of Feminist Influence," Signs v20 i3 (Spring 1995) 646. (online University of Chicago 28 February 2000)

[113] Tamara Jones, "Couple Trades Charges on Assaults; Woman Who Cut Husband Says He Forced Her to Abort" The Washington Post: (24 September 1993). (online lexis- nexis 15 January 2002)

[114] Carlos Sanchez, Marylou Tousignant, "John Bobbitt Tells Court He Didn't Rape His Wife; Husband Describes Pain of Being Cut" Washington Post: (10 November 1993) A1 (online, lexis-nexis 15 January 2002)

[115] Carlos Sanchez, "Lorena Bobbitt Tells of Forced Sex; She Testifies That Repeated Violence Drove Her to Cut Her Husband" The Washington Post A1, 9 November 1993. (online lexis-nexis 15 January 2002)

Belief," and said "Lorena had more than one option...She chose the knife;"[116] as if John had only one option. Perhaps more important to the case at hand is how those in power viewed the case. In the White House the Bobbitt cased was joked about,[117] and was never used as a case for stronger martial rape laws. Interestingly the Simpsons had a marital dispute during 1993 that the public would not learn of until 1994. There was no mention of Nicole's frantic call for help, October 25, 1993; no mention in the week's news of the dispatchers commentary, "Ok, is he the sportscaster or whatever?"[118] There were no members of Congress that jumped on the case as a symbol for the need of stronger marital rape and abuse laws. This was the same Congress that only a year later would flood the Congressional Record with the name of Simpson, pushing for a strong domestic violence bill. Perhaps this change was because coverage of the Simpson story in 1994 was different from that of any other domestic violence tragedy, for "unlike many depictions of domestic violence, mainstream reporters in this case (focused) on the abuser, not the victim."[119] People were drawn to the tragedy of their fallen hero and in the process they changed their perceptions not only of O.J. but of domestic violence.

Coverage of the "Simpson tragedy" inundated the news. As one observer in the early days of the case put it, "You can't help but be sucked into it."[120] At first coverage

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[116] Kendall Hamilton and Marc Peyser, "The Cut Heard Round the World," Newsweek: (18 October 1993) Periscope 10. (online lexis-nexis 18 January 2002).

[117] Al Kamen, "Hot Topic in the Oval Office: 'the operation'" The Washington Post: (1 October 1993) A23. (online lexis-nexis 24 January 2002)

[118] Robert Vito, "Police Release 1993 Nicole Simpson 911 Recording," Larry King Live CNN 22 June 1994, (online lexis-nexis 25 January 2002)

[119] Wendy Kozol, "Fracturing Domesticity: Media, Nationalism, and the Question of Feminist Influence," Signs v20 i3 (Spring 1995) 646. (online University of Chicago 28 February 2000)

[120] Jim Hill, "O.J. Simpson Case Has Captured Public Attention," CNN: (2 July 1994) News 12:07pm ET (online lexis-nexis 28 January 2002)

of Nicole's murder was minimal and focused on the fact that Nicole was O.J.'s ex-wife, and that he was being questioned. The day after the murders, CNN anchor Judy Woodruff introduced the Simpson murder story by saying "O.J. Simpson is widely considered one of the greatest running backs ever to play the game of football, college or professional."[121] The CNN correspondent, Robert Vito, continued Woodruff's lead, discussing that Simpson was "not at this moment being considered a suspect..."[122] There was little mention of Nicole, save only to mention her 1992 divorce from O.J. and that "the couple had been seeking a reconciliation."[123] By the 14th of June, CNN was describing the Simpson marriage as "stormy."[124] Just days later the media and the public began to change their perceptions of the case. While the focus continued to be on O.J. it was no longer on his success but his dark side. The papers at first enticed the attention of readers with headlines such as "O.J. Simpson's Ex-Wife, Man Found Slain"[125] and "O. J. Simpson's Ex-Wife Slain At Her Condo in Los Angeles".[126] Quickly, however, the identity of the victims changed from "O.J. Simpson's ex-wife" to "Nicole Brown Simpson and her friend". As the media changed the identity of the victims changed, the

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[121] Robert Vito, "Ex-Wife of O.J. Simpson Found Murdered Last Night," CNN (13 June 1994), News 6:01pm ET transcript number 795-1. (online lexis-nexis 28 January 2002)

[122] Robert Vito, "Ex-Wife of O.J. Simpson Found Murdered Last Night," CNN (13 June 1994), News 6:01pm ET transcript number 795-1. (online lexis-nexis 28 January 2002)

[123] Vito

[124] "Police Consider Simpson a Suspect in Ex-Wife's Murder" CNN: (14 June 1994) News 12:04pm ET. Transcript number 726-1. (online lexis-nexis 28 January 2002)

[125] Josh Meyer and Eric Malnic, "O.J. Simpson's Ex-Wife, Man Found Slain," The Los Angeles Times: (14 June 1994) A1. (online lexis-nexis 30 January 2002)

[126] Seth Mydans: " O. J. Simpson's Ex-Wife Slain At Her Condo in Los Angeles," The New York Times: (14 June 1994) B9. (online lexis-nexis 30 January 2002)

headlines changed to "A dark side to a fairy-tale life / Fiery quarrels, calls to police, divorce court"[127] and "Review of Records Shows Simpson Abused Wife; No Arrest Imminent in Killings, Police Say"[128]. While these headlines and the subsequent stories focused mainly on O.J, it is important to note that journalists began to write about Simpson's history of abuse, and why Simpson abused. Whereas in previous domestic violence-related murders sympathy would be expressed for the victim, the media would focus on why she did not leave, this time the focus in the Simpson case was on the abuser. By the 17th of June the media looked at Simpson, now charged with murder, in a new light. Instead of leading into segments with tales of O.J.'s success anchors began with the tragedy of the murder victims, particulary with Nicole's tragic life. Nicole Brown Simpson was no longer just the ex-wife of O.J. Simpson, she was a woman who did everything possible to escape an abusive marriage, a woman ignored by the system, and ultimately a powerful symbol. By the end of June domestic violence, along with Nicole's story, had become the "national issue of the moment."[129] The national media began to cover stories of domestic violence, making it an issue.

Coverage of the O.J. story did "more than send audience ratings soaring. It...also caused many battered women to break their silence."[130] Many women spoke out publicly about their experiences with abuse. Public awareness increased as the media

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[127] Ann Stewart, "A dark side to a fairy-tale life / Fiery quarrels, calls to police, divorce court," USA Today (16 June 1994) 3A. (online lexis-nexis 30 January 2002)

[128] Christine Spolar and William Hamilton, "Review of Records Shows Simpson Abused Wife; No Arrest Imminent in Killings, Police Say," The Washington Post: (16 June 1994). (online lexis-nexis 30 June 2002)

[129] Gary Tuchman, "Simpson Case Sparks Increase in Domestic Violence Calls," CNN: (24 June 1994) News 2:12 pm ET Transcript # 739-3. (online lexis-nexis 28 January 2002)

[130] "Too Much of It Around: Domestic Violence," The Economist (US) (16 July 1994): A25. (online. Expanded Academic ASAP 31 March 2000)

covered, not only the O.J. trail, but also the epidemic of domestic violence in America. "With her bruises captured in photographs and her fear echoing on a 911 audiotape even after her death, Nicole Brown Simpson (had) unleashed a wave of support for battered women and firmly anchored domestic violence in the American psyche as a problem that must be dealt with."[131] One woman told Time magazine that she grew up "idolizing" Simpson, and when hearing reports of O.J.'s abusive marriage with Nicole, she "didn't want to believe it was O.J. It was just like (her) husband....(adding) the reality hit me. Her (Nicole's) story is the same as mine—except she's dead."[132] Many more women related personally to the murders, and calls to hotlines and shelters increased dramatically. In Los Angeles calls were up 80 percent in the beginning weeks of the coverage.[133] These statistics prompted Lynn Moriarty, the director of the Family Violence Project of Jewish Family Services in Los Angeles to say, "Something as dramatic as this cracks through a lot of the denial."[134] Part of this denial cracking came from male-oriented sports media condemning domestic violence. Where previously instances of domestic violence took only a few neutral lines in sports sections of major papers, or in sports magazines, after the murder of Nicole Brown Simpson coverage was reported with a new twist. Where 1989 articles recalled "O.J. Simpson Heisman Trophy

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[131] "US Domestic Violence a Central National Issue," WIN News : (Autumn 1995) 79. (online lexis-nexis 31 March 2000)

[132] Jill Smolowe "When Violence Hits Home," (Cover Story) Time v144 n1 (4 July 1994): 18 (8). (Online Electronic Collection 20 March 2000)

[133] Smolowe

[134] Smolowe

winner," 1994 articles wrote of him as "O.J. Simpson, convicted wife-beater."[135] The predominately male-oriented Sports Illustrated blasted sports figures, such as New York Met manager, Dallas Green, for joking about domestic violence. Green had stated that to deal with the team's losses he "just beat the hell out of [his wife] Sylvia and kick(ed) the dog and whatever else (he had) got to do to get it out."[136] Sports Illustrated called such jokes "neither harmless nor meaningless." Their article went on to affirm that:

> The insensitivity they reflect is part of a pattern of national denial in which the media, the courts and the public virtually ignore an alarming societal ill. This reality was dramatically underscored by the savage murder of Nicole Brown Simpson and revelations about her sometimes-violent marriage to O.J. Simpson. For whether O.J. murdered his ex-wife or not, there is no doubt that he beat her—and did so with near impunity.[137]

Experts saw that the Simpson case was focusing light on a long-forgotten issue. As one such domestic violence expert, Audrey Chapman stated "Unfortunately this has been a subject that has been neglected for too many years. Battered women and children—have been verbally, sexually and physically abused for years...Now you've got a whole country focused on domestic violence. People are suddenly realizing this is a major issue."[138] As the O.J Simpson trail commenced coverage of domestic violence continued, the "pattern of national denial" which Sports Illustrated mentioned was

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[135] Mich Gelman, "Group Therapy Gets Experts' Nod; Experts Say Group Therapy Best" Newsday: (1 August 1994). (online, lexis-nexis 24 January 2002)

[136] Willaim Oscar Johnson, "A National Scourge," Sports Illustrated v80 n25 (27 June 1994): 92. (online Expanded Academic ASAP 31 March 2000).

[137] Willaim Oscar Johnson, "A National Scourge," Sports Illustrated v80 n25 (27 June 1994): 92. (online Expanded Academic ASAP 31 March 2000).

[138] Trudy S. Moore, "O.J. Simpson's Case Brings New Focus on Abuse of Women," Jet v86 (18 July 1994) 14 (5) (online Expanded Academic ASAP 31 March 2000)

broken, and the public broadened their scope away from only Nicole Brown Simpson, to the millions of women beaten by their spouses and boyfriends each year.

Experts thought the O.J case would be the catalyst towards ending the acceptance of domestic violence and indeed they were correct. For the first time, the public was able to thoroughly examine the endemic roots of domestic violence through media coverage, and the facts that it presented. Media began to cover domestic violence in a new way, focused on the offender, and in full length. In 1990, 1991 and 1992, The Washington Post, carried just one full length story on domestic violence each year within the first section of the paper. In 1993, (the year of the Bobbitt's), the Post carried six domestic violence stories in the front section. In 1994 these numbers increased dramatically, to 17 full-length front-section stories, with 54 total full length stories, 37 of which mentioned the Simpsons. The situation was similar with The New York Times , In 1990 the Times had four front section full length stories, in 1991 they had five, in 1992 there were nine such stories, (one of which was on battered men), in 1993 there were 12 stories. In 1994 these numbers, like those of the Post increased dramatically to 40 front-section stories covering domestic violence. Interestingly the NY Times began to write full-length stories in the front section about victims that were not celebrities. In all the Times carried 68 full-length stories on domestic violence in 1994, 34 of which mentioned the Simpsons.[139] The increase in coverage was not a result of more incidents of violence, nor other outside forces, thus it can be attributed to the Simpson case and the increased awareness it created.

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[139] Personal Research, see Appendix A

For years, the FBI, the Justice Department and private organizations had publicized alarming statistics regarding the epidemic of violence against women in the home. Yet without a face these statistics and publications were just words and numbers and thus no one listened. It took "the murder of Nicole Simpson to give national resonance to those numbers."[140] After the murders major newspapers began to write extensively of domestic violence, focusing on the pain of the victim, and the brutality of the perpetrator. A New York Times article led with a brief overview of one victim's abusive relationship; before the murder of Nicole Brown Simpson stories like this would have focused on why she didn't leave earlier, or how many times she went back to him. This time the NY Times focused on the fact that the woman did leave, that she was still in danger, and that she was "studying to become a social worker and attempting to rebuild her life."[141] The article went on to mention the effect of the murder of Nicole Brown Simpson on domestic violence coverage, but mainly focused on ordinary women, and their successful escape stories. Perhaps the biggest change in coverage of domestic violence after the murders, was that the media stopped making excuses for the batterer (Simpson). When his 1989 conviction was covered, journalists gave only a brief nod to the victim, stressing that Simpson had said it was a family matter he and Nicole could handle themselves. Yet in 1994, journalists did not make excuses for his past behavior, nor his alleged crime. Though O.J.'s trial barely began in the last few months of 1994, the media tried him themselves, and wrote as if he were guilty of such a horrible crime.

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[140] Jill Smolowe "When Violence Hits Home," (Cover Story) Time v144 n1 (4 July 1994): 18 (8). (Online Electronic Collection 20 March 2000)

[141] Elsa Brenner, "Taking Steps to Counter Domestic Violence," The New York Times (3 July 1994) 13 WC 1 col.1 (online, lexis-nexis 25 January 2002)

Before the murder of Nicole Brown Simpson there was no face, no national symbol for the millions of women who were abused each year; after the murder of Nicole, her face was linked with the horrifying statistics.

The death of Nicole allowed people to place a face on the victims, to "know" a woman who died from abuse when they heard from the Surgeon General that "domestic violence (was) the leading cause of injury among women ages 15 to 44."[142] Now when the FBI found "as many as four million women (were) abused each year in the U.S.,"[143] people would also 'know' one of those women. The media coverage of the O.J saga was indeed a "consciousness-raising session" that allowed Americans to "grimly (absorb) the fact that in some areas domestic violence (sent) as many women to emergency rooms as any other form of illness, injury or assault."[144] With this new consciousness came the end of the era when "public figures would sooner advocate free cocaine on demand than criticize the family;" even if that meant condoning domestic violence.[145] Throughout the country, women flooded crises hotlines with stories of abuse, attributing their courage to come out to the coverage of Nicole Brown Simpson's ordeal, the public and legislators alike not only heard but listened to their stories. In Los Angeles, the scene of the crime, calls to shelters and applications for space increased threefold.[146] Across the country

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[142] Willaim Oscar Johnson, "A National Scourge," Sports Illustrated v80 n25 (27 June 1994): 92. (online Expanded Academic ASAP 31 March 2000)

[143] Johnson

[144] Barbara Ehrenreich, "Oh, Those Family Values," Time 18 July 1994: 62. (online Expanded Academic ASAP 31 March 2000.)

[145] Barbara Ehrenreich, "Oh, Those Family Values," Time 18 July 1994: 62. (online Expanded Academic ASAP 31 March 2000.)

[146] "Too Much of It Around: domestic violence." The Economist (US) v332 n7872 (16 July 1994) A25 (1) (online Dow Jones Interactive 31 March 2000)

calls to domestic violence hotlines were up an average of twice what they were before the murders, and as high as 80 percent more in some areas.[147] The tone of the callers changed as they related their relationships to that of the Simpsons. Betty White, of the Center for Women's Studies and Services Hot Line in San Diego, remarked "The fear of being killed is coming up routinely, whereas before many women wouldn't mention it."[148] Nicole's murder allowed women to publicly fear for their lives and Congress was forced not only to listen to their fears but to work to quell them. Nicole now symbolized all battered women. People read transcripts of her frantic calls to 911 in the papers, and heard her frightened voice during the same calls nightly on the evening news, as they gazed at her bruised face, and crime scene photos of her murder. People were now outraged that, only half of the states required arrest if domestic violence disputes turned violent, and police often walked away if the victim would not press charges.[149] Society demanded a change in legislation that would keep more women from becoming another Nicole. Before the murders people blamed the victim the focus was typically on why the woman would not leave, after the murders the focus shifted to the abuser. The focus on the abuser forced the public, legislators and the media, to stop blaming the victim and do something to end the violence.

Media coverage of the abuse in the Simpson marriage created a public outcry that resulted in legislation at both the state and federal level. Before the murder of Nicole Brown Simpson many states had pending domestic violence bills, but little legislation

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[147] Jane Gross, "Simpson Case Galvanizes U.S. About Domestic Violence," The New York Times (4 July 1994): Section 1, 6. (nline lexis-nexis 14 November 2001).

[148] Gross

[149] Jill Smolowe "When Violence Hits Home," (Cover Story) Time v144 n1 (4 July 1994): 18 (8). (Online Electronic Collection 20 March 2000)

had the support needed to pass. After the Simpson saga began, several states passed strict domestic violence legislation, compelled by their constituents, and influenced by increasing coverage of domestic violence. Two days before the murders, Gil Garcetti, "the Los Angeles district attorney joined opposition to a (California) state Senate bill proposing harsher penalties for domestic violence. Within a week, he was on television calling O.J. Simpson's punishment for wife-beating in 1989 "a joke.""[150] Mr. Garcetti's change of heart reflected that of many prominent conservative legislators. While before the murder of Nicole such lawmakers could afford to ignore domestic abuse placing it as a family matter, and maintain their political career, the murder of Nicole made abuse a public matter, and opened the eyes of many people. States quickly passed laws that had been held up in the legislative red tape for years. Most of "the [State] provisions include(d) mandatory arrests in the case of a complaint, more stringent penalties for repeat offenders and training in how to respond to domestic violence for law-enforcement officials."[151] In New York for example legislation requiring mandatory arrests for any person committing a domestic assault was quickly, unanimously, passed.[152] While the bill had been in the works before the murders, its' unanimous passage was attributed to the increased interest in domestic violence stemming from the O.J. Simpson case.[153] In

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[150] Clark Brooks, "More aware of Domestic Violence in Light of O.J.," San Diego Union Tribune (02 October 1995) D-1 (online Dow Jones Interactive 19 September 2001)

[151] "US Domestic Violence a Central National Issue," WIN News (Autumn 1995): 79 (online lexis-nexis 31 March 2000)

[152] Jill Smolowe "When Violence Hits Home," Time 4 July 1994 v144 n1 p18 (8) (electronic database collection: A15508516, RN: A15508516, 31 March 2000)

[153] Jim Dao, "Giving Victims a Weapon; States Enact Laws Against Domestic Violence," The New York Times 26 June 1994, Section 4 p2. (Online lexis-nexis 15 November 2001)

New Jersey six bills related to domestic violence were quickly passed[154] just after evidence of abuse in the Simpson marriage was disclosed. In California legislators scrambled to write and pass legislation requiring a computerized registry of restraining orders and confiscating guns from men arrested on domestic violence charges.[155] A Colorado State Legislator stated, "Simpson has almost legitimized the concerns and fears around domestic violence. This case is telling them, "It's not your fault.""[156] Many of these laws were able to pass because of the strong immediate shift in public opinion about domestic violence resulting from the Simpson case. A USA Today poll showed that over half of people now believed that if the court had taken strong steps against O.J. in 1989 when he was charged with physically abusing Nicole the murders could have been avoided.[157] Legislation received a similar flurry of activity at the federal level. In the days after the history of spousal abuse in the Simpson marriage came to light, President Clinton condemned domestic violence, and "amendments protecting battered women were added to the crime bill"[158] These amendments came in the form of the Violence Against Women Act of 1994, the same act that had come before Congress for six years and had never passed. Quite simply before the murder of Nicole Brown Simpson few Congressmen felt domestic violence was a pressing electoral issue. Previous high profile cases focused on why the woman did not leave before it "was too

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[154] Dao

[155] Jill Smolowe "When Violence Hits Home," Time 4 July 1994 v144 n1 p18 (8) (electronic database collection: A15508516, RN: A15508516, 31 March 2000)

[156] Smolowe

[157] Roper Center, "Accession Number 0219316, Question number 009" Public Opinion Online Roper Center, University of Connecticut,. (22 June 1994). (online lexis-nexis 18 September 2001)

[158] Jane Gross, "Simpson Case Galvanizes U.S. About Domestic Violence," The New York Times (4 July 1994): Section 1, 6. (Online lexis-nexis 14 November 2001)

late." In Nicole's case she had tried to leave, she had tried to keep her children safe, and more importantly the media and the public cared about her, and so Congress cared about Nicole and the cause that her image represented.

In the days before the murder of Nicole Brown Simpson the VAWA received little attention as part of the omnibus crime bill of that year. Most felt that if the VAWA were to be included in the 1994 omnibus crime bill, then in a joint-conference committee, the language would be that of the House, which did not include a provision for gender-based civil rights. When the Senate had passed the bill on November 11, 1993, Congressional Quarterly, (CQ), the premiere hill publication, did not include the vote in its summary of key votes. When the house passed its' version in April, the vote was again missing from the key votes of the preceding week in CQ . Yet in the June 25, 1994, (just after the murders), issue of CQ , there was a full length story on the VAWA provision in the Social Policy section, and another article on the Crime Bill, with mention of the VAWA, were both highlighted in the issue. The Simpson case created this change. Quite simply "Problems are often not self-evident by the indicators. They need a little push to get the attention of people in and around government. That push is sometimes provided by a focusing event like a crises...that comes along to call attention to the problem, as a powerful symbol that catches on..."[159] The VAWA had no symbol, no focusing event, and thus no push to pass the controversial Senate version which gave civil rights to crimes against gender. Congressmen who supported the civil rights language in the bill before the murder of Nicole had only faceless names that the majority of the country was content to ignore. Then on June 12, the bodies of Nicole Brown

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[159] John W. Kingdon, Agenda, Alternatives, and Public Policies. (Harper Collins Publishers, 1984) 99.

Simpson and Ronald L. Goldman were found brutally slashed outside of her posh Brentwood condo, OJ Simpson the football hero was accused and arrested, and Congress had its' symbol. Women's rights advocates were able to use the Simpson case to garner media coverage and to push for the passage of the VAWA. On June 22nd, the National Organization for Women (NOW) held a rally "to protest congressional delays in passing a fully-funded Violence Against Women Act."[160] NOW was able to use the name of Simpson to gain attention from the media for their rally and thus increasing the exposure to Congressional leaders. Experts have long known that "people have a tendency to listen to athletes a lot faster than they will most people..."[161] Simpson was an athlete, an American hero, and people began to listen when their hero fell. Suddenly Simpson was no longer a man to be admired. Politicians and pundits from both sides of the political spectrum felt compelled to comment on the tragedy of the Simpson case. As Brent Bozell of the conservative Media Research Center put it, "We all assume that O.J. Simpson was this great wonderful, nice, loving family man. Why? We saw him carry a football, we saw him do some sports announcing, we saw him jump over some barricades for Hertz. We knew nothing about O.J. Simpson!"[162] President Clinton, who only a few months earlier had joked about the Bobbitt case, publicly expressed condolences for the families of the victims. Because of the large amount of domestic violence coverage the Simpson case spurred the Senate version of the VAWA was included in the language of the comprehensive Violent Crime and Law Enforcement Act..

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[160] Meredith Sobel, "NOW Tells Congress O.J. Case Shows Need for New Law," National NOW Times vol. XXVI No. 5. (September 1994)

[161] Charlie Nobles, "Abuse of Women: Not O.K," quoting Bonnie Flynn, The New York Times (19 October 1994) B17 (online lexis-nexis 14 November 2001)

[162] Reid Collins, "Experts Analyze Media Coverage of O.J. Simpson Case," CNN (20 June 1994). (online lexis-nexis 28 January 2002)

Chapter Four:
The Violence Against Women Act of 1994

When stories of the abusive history of Simpson marriage broke the Violent Crime Control and Law Enforcement Act of 1994, (the crime bill), was sitting in a conference committee. Two versions of the Violence Against Women Act, (VAWA), were up for debate in conference. The House had a passed version of the VAWA in their crime bill package, that did not call for gender based civil rights. The Senate had not passed any version of the VAWA and had only a voice vote calling for the Senate members of the conference committee to demand a VAWA that included gender-based civil rights. If any version of the VAWA were to pass most thought it would be the version drafted and passed in the House, the version that did not include the civil rights provisions of Title III. Things changed when the Simpson saga exploded. The murder of Nicole Brown Simpson allowed those on the conference committee, who wanted the strongest VAWA possible, to point to the tragedy of a beautiful young woman, abused by an American "hero," and ignored by the system as the justification for the Senate version. Before the Simpson case more progressive members of Congress could reiterate what feminist scholars had long said, that "even nice guys sometimes abuse their partners,"[163] but the public did not grasp this concept, Simpson changed that. "After all, O.J. Simpson (was) the embodiment of what experts on domestic violence have been saying for years: that the problems cut across class lines and occurs even in the so-called "best" families; that the guy who beats may seem, outside his home, like the nicest guy you ever met; that the batterers (and too often the police) regard the crime as a private family matter even after

[163] Wendy Kozol, "Fracturing Domesticity: Media, Nationalism, and the Question of Feminist Influence," Signs v20 i3 (Spring 1995): 646. (online Expanded Academic ASAP 31 March 2000)

the woman is dead."[164] The murder of Nicole forced the Federal government, and the press, to make domestic violence a national issue. Congress and other branches of the Federal government responded to the murder of Nicole Brown Simpson with an overwhelming effort to pass the VAWA. Attorney General Janet Reno, "...urged support for the federal crime bill now pending in Congress, which would earmark several hundred million dollars in new domestic-violence funding for states and localities..."[165] Members of Congress and on the conference committee now had the justification they needed to attach a large price tag to the VAWA and to include gender-based civil rights. The once overlooked issue of domestic violence had suddenly become a primary and politically advantageous reason to pass the omnibus crime bill.

There are a few important places to look to understand the reaction Congress had immediately following the discovery of Simpson's abuse and how the VAWA with gender-based civil rights in place was reported out of committee. Congress felt that they needed to satisfy the public that they acknowledged domestic violence as a problem, they did this through many venues including new hearings.. A House subcommittee decided shortly after the murders to schedule a hearing on domestic violence, where none had been scheduled before.[166] Unlike previous hearings, the hearings of 1994 looked at many different aspects of the problem including those of health, economics, police response, and the role of the courts regarding spousal abuse. The scope of study broadened in order

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[164] Susan Douglas "Blame it on Battered Women" The Progressive v58 n8 (August 1994) 15 (1). (online Expanded Academic ASAP 31 March 2000)

[165] Betsy Streisand, Erica Goode, "Till Death Do Them Part?" US News & World Report V117 n1 (4 July 1994) 24(5) (online lexis-nexis 31 March 2000)

[166] Trudy S. Moore, "O.J. Simpson's Case Brings New Focus on Abuse of Women," Jet Lifestyles (18 July 1994) 14. (online lexis-nexis 12 November 2001)

that gender based rights could be constitutionally justified, by proving the economic aspects. The Simpson case was a primary reason that the hearings were scheduled, and the testimony of witnesses and the statements of Senators often mentioned the deat of Nicole. In the words of Senator Charles E. Schumer,(D-NY), the VAWA and hearings were "...about the 4 million women a year whose names and faces (were) not on the evening news...In fact, the Simpson case (was) all the more remarkable because it (was) so terribly ordinary."[167] Before the murder of Nicole hearings with as much publicity, were unheard of when Congress discussed the other 4 million nameless victims of spousal abuse. As victims and advocates spoke before Congress, Congress learned that the Simpson case was indeed not an exception, in fact, "it (was) ordinary for police to respond half heartedly to complaints of spousal abuse. It (was) ordinary for domestic violence offenders to get off with a slap on the wrist, and tragically, it (was) ordinary for women who have been repeatedly abused to end up as murder victims."[168] Through the hearings, Congress found "that violence against women (was) an immense national problem, exacerbated by pervasive bias against battered women and rape victims on the part of many state and local police, prosecutors, judges, and jurors."[169] One of the main purposes of Congress in 1994 was to find out if domestic violence had become a health problem in order that they might link the health costs to interstate commerce. As Dr. Mark Rosenberg testified, "Family and intimate violence must be considered a priority

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[167] Charles E. Schumer, "Statement by U.S. Rep. Charles E. Schumer: Chair, Crime and Criminal Justice Subcommittee: "Domestic Violence: Not Just a 'Family Matter' ". Federal Document Clearing House Congressional Testimony (30 June 1994). (online, lexis-nexis 24 February 2001.)

[168] Schumer

[169] Stuart Taylor Jr., "Congress, The Court, and Violence Against Women," National Journal v32 i2 (8 Jan. 2000): 76. online lexis-nexis 28 March 2000.

public health problem because of the extraordinary toll it takes on our society."[170] Rep. Norton (D, DC) believed that domestic violence was "one of our foremost legal problems" and we did not take it "seriously as a legal problem, [if we did] it would not be a health problem."[171] Those that testified reminded Congress that although there had been a national educational effort to end violence against women, they had not been successful. As Judge Albert L. Krane testified, "The truth (was) that in spite of all our efforts thus far, and they have been considerable, both on the national and state levels, the justice system ha(d) not done well in protecting women from violence in their homes."[172] This truth was witnessed by thousands of battered women and their advocates who testified before Congress. One such advocate, Vicky Coffey, the Executive Director Chicago Abused Women Coalition, lamented "Abuse constantly and consistently exhausts the resources of our community...so you see, domestic violence is not just a family matter – it is a plague on our society that must be stopped."[173] Coffey's testimony would ultimately allow Congress to justify gender-based civil rights under the commerce clause. One of the most remarkable aspects of the hearings was not who testified, or what was said, but that the media took note of the hearings. CNN covered the hearings on the "Inside Politics" show, from the standpoint of the witnesses, not the members of the

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[170] Mark L. Rosenberg, M.D, "Testimony, before the Subcommittee on Human Resources and Intergovernmental Relations Committee on Government Operations. US. House of Representatives." (5 October 1994). (online, Congressional Universe , 24 February 2001)

[171] Trudy S. Moore, "O.J. Simpson's Case Brings New Focus on Abuse of Women," Jet v86 n11 (18 July 1994) 14. (online, Expanded Academic ASAP, 31 March 2000.)

[172] Albert L. Krane, "Prepared Testimony by Judge Albert L. Kramer (Retired) Quincy District Court, Massachusetts before the Senate Judiciary Committee, Re: Implementation of the Violence Against Women Act," Federal News Service (29 September 1994). (online, lexis-nexis, 24 February 2001).

[173] Vickii Coffey, "Testimony June 30, 1994 Vickii Coffey Executive Director Chicago Abused Women Coalition, House Judiciary/Crime and Criminal Justice Domestic Violence," Congressional Testimony Federal Document Clearing House (30 June 1994). (Online, Congressional Universe, 24 February 2001.)

House panel. They quoted three women who spoke, showing the horrifying crimes that were committed against them. From the first woman who said her "ex had a proclivity for kicking (her) with steel toed boots."[174] To the third woman who described how her husband grabbed her neck and tried to choke her to death.[175] These quips were important because they showed that major media outlets now cared about the victims of domestic violence, not only those who were celebrities.

While some members of Congress released their anger over the Simpson case through Congressional hearings, others spoke on the floor against domestic violence, though the VAWA was already in Conference. Some of these statements were controversial; others simply showed remorse for the victims of domestic violence and urged Congress to act. The most controversial statements on the Senate floor at the time were spoken not by a Senator, but by the Senate Chaplin. There was controversy because, at first, the Senate Chaplin prayed for America's "fallen hero". In the Senate prayer on the 23rd of June, 1994 Senate Chaplin Richard C. Halverson prayed, "our Nation has been traumatized by the fall of a great hero. We pray for O.J. Simpson. Whether he is innocent or guilty rests with our system of justice. But our hearts go out to him in his profound loss. Whatever the circumstances, he has got to be hurting deeply."[176] The Chaplin was highly criticized for the language by the media, and member of Congress, as well as the public. Most people felt that the nation did not need to send their hearts to an alleged murderer, but to the families of his victims. A number

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[174] Candy Crowley, "Battered Women Testify Before Congressional Panel," CNN:Inside Politics (30 June 1994 4:55pm ET) Transcript # 614-6. (online lexis-nexis 28 January 2002)

[175] Crowley

[176] Richard C. Halverson, "Prayer: June 23, 1994" Congressional Record-Senate 140 Cong Rec S7479. (23 June 1994). (Online: lexis-nexis, 29 November 2001)

of Senators lashed out on the Senate floor at the underlying message of the prayer. Senator Patty Murray (D-WA) took the floor the following Wednesday noting "It seems we talk more and more of fallen heroes, but we sometimes forget who they fall on."[177] In response to the widespread criticism a week later the Chaplain responded with another prayer, his tone significantly altered. In the subsequent prayer, he called the attention of the Senate to "All this evil which has, so smugly, been ignored or minimized by family, friends, justice systems and even churches, has finally been brought to light by the national, hourly press and media coverage of the O.J. Simpson affair."[178] He ended his prayer asking for forgiveness and asking "Mighty God, bring healing to our Nation and to all of us who seem so blind and deaf to so much agony."[179] Still the chaplain's prayers were not the only statements spoken on the floor on behalf of the victims of domestic violence.

There were many members of Congress who had far less controversial statements on the floor. Many who spoke out against domestic violence used Nicole Simpson as a symbol of all victims, and her murder as an illustration of the need to pass a strong version of the VAWA within the crime bill. On the 21st of June, Representative Schroeder (CO) took the floor remarking on the recent developments in the murder case of Nicole Brown Simpson, stating, "I do not want to address what I think about OJ Simpson, because honestly I think he should be considered innocent until they prove him guilty. But let me say, one of the things that came out this weekend that is so

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[177] Helen Dewar, "Chaplin Revisits Simpson Issue; Prayer in Senate This Time Focuses on Victims of Abuse," The Washington Post (1 July 1994). (online lexis-nexis 28 November 2001)

[178] Richard C. Halverson, "Prayer: June 30, 1994," Congressional Record-Senate 103rd Congress 2nd Session. Cong Rec S7973. (30 June 1994). (online: lexis-nexis 29 November 2001)

[179] Halverson

traumatizing is the issue of spouse abuse and domestic violence."[180] Representative Schroeder then urged Congress to pass "the strongest possible Violence Against Women Act in (the) crime bill and let everyone in America say we are going to insist our police departments start answering those calls and making arrests and getting to the bottom of (the domestic violence) issue."[181] As Representative Maloney urged, "If we can pass this bill [the VAWA], maybe we can protect the next Nicole Simpson from the actions of an abusive spouse. Domestic abuse is no longer a family matter."[182] Representative Cynthia McKinney (D-GA) echoed her words concluding, "We must no longer tolerate or condone this or any other type of violence against women."[183] Others, like Representative Barbara-Rose Collins (D-MI) used stronger words, saying, "It is time to bring to light what has been subject to silence too long. No one is immune. Violence crosses all social, educational and economic barriers...We cannot afford to allow terrorism in our homes to continue. The very foundation of our society—the family is at stake."[184] Before the murder of Nicole Brown Simpson words such as those of these representatives were seldom spoken, falling only on deaf ears and barely making an impression in the media. When sports figures in the past abused their wives the incident would often receive little attention in the media, much less from Congress, the spin of

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[180] Patricia Schroeder, "Spouse Abuse and Domestic Violence Must End," Congressional Record: 140 Cong Rec H4724, (21 June 1994). (online: lexis-nexis 30 November 2001)

[181] Congresswoman Patricia Schoroeder, "Pass Violence Against Women Act" Hose of Representatives Congressional Record p. H4731. (21 June 1994). (online Thomas 22 January 2002)

[182] Rep. Maloney, "Urging the Strongest Possible Version of the Violence Against Women Act," Congressional Record, 140 Cong Rec H5177 Vol. 140 No.84, 28 June 1994. (online lexis-nexis 30 November 2001)

[183] Trudy S. Moore, "O.J. Simpson's Case Brings New Focus on Abuse of Women," Jet v86 n11 (18 July 1994) 14. online, Expanded Academic ASAP, 31 March 2000.

[184] Moore

any story was typically of a "fallen hero." The murder of Nicole received so much publicity, her desperate calls to 911 were broadcast so often, that Congress was forced to listen to her cries and the cries of the millions of other victims of spousal abuse each year. Delegate Eleanor Holmes Norton asked Congress to "remember Nicole and the 52 percent of all women in the first half of the 1980's who were murdered by their partners. Let us make certain that the Violence Against Women Act remains a part of the crime bill."[185] Comments in the Senate mirrored those spoken on the floor of the House. Senator Barbara Boxer (D-CA) linked Nicole to other women who had significant influence on legislation throughout America's history stating, "Rosa Parks refused to sit in the back of the bus, and the Nation's attention was focused on the issue of racial injustice. Anita Hill stepped forward to testify before Congress, and the Nation focused on sexual harassment in the workplace. And now,....a terrible event in California, the death of a young mother, brings a tragic issue to the forefront: The brutality and the terror of spousal abuse."[186] And it was not only female members of Congress that were outraged by the Simpson case and who used the case to push Congress to support the strongest version of the VAWA, and the conference committee to include gender-based civil rights in their report. Senator Simon submitted a four page article on domestic violence, the Simpson case, and the need to pass the VAWA into the Congressional Record by reading the article verbatim on the floor.[187] Simon concluded his remarks by

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[185] Eleanor Holmes Norton, "O.J. Simpson Tragedy Points Up Importance of the Violence Against Women Act," House of Representatives, Congressional Record (21 June 1994) H4732. (online Thomas 22 January 2002)

[186] Senator Barbara Boxer, "Violence Against Women," Congressional Record 140 Cong Rec S7217, Vol. 140, No. 79; (21 June 1994). (online lexis-nexis 29 November 2001)

[187] Senator Simon, "A Vicious Circle," Congressional Record Vol. 140 No.87. 140 Cong Rec S8431.(1 July 1994). (online lexis-nexis 20 January 2002)

suggesting four steps to stop the violence, including the need to "bring the problem out into the open," and to pass the crime bill with a strong version of the VAWA.[188] Senator Paul Wellstone commented on the society change that was occurring, noting "we are coming to realize as a country that for a ll too many women the home, rather than being a safe place, is a very dangerous place. We are coming to realize as a country that family violence knows no boundaries. We are coming to realize that this violence is a crime and should be treated as such..."[189] Senators and Representatives began to take their comments on domestic violence to a broader audience.

Members of Congress began to hold press conferences on domestic violence poly which were widely covered by the media, a phenomenon that would have been virtually unheard of just a few weeks before. In the first six months of 1994 there were no press conferences held by members of Congress regarding the VAWA, though the bill was before the House at the time, and had made it into the House version of the crime bill. More importantly however is not that these conferences were held but that the media actually broadcast, and wrote of, what was said. When Attorney General Reno joined Senators Biden and Boxer, along with Representatives Schumer, Slaughter and Schroeder, the Balitmore Sun carried the story on the second page. At the conference Senator Biden remarked on how the opinions had changed since he first introduced the VAWA, saying "Almost five years ago, when I first introduced the Violence Against Women Act...We confronted strong opposition from the then-attorney general, and we

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[188] Senator Simon, "A Vicious Circle," Congressional Record Vol. 140 No.87. 140 Cong Rec S8431.(1 July 1994). (online lexis-nexis 20 January 2002)

[189] Paul Wellstong, "Family Violence," Congressional Recocrd-Senate Vol. 140 No.80 140 Cong. Rec S7393, (22 June 1994). (online lexis-nexis 22 March 2002)

found strong opposition from the then-Justice Department. We found opposition from President Bush and from the Judicial Conference..."[190] Biden went on to remark that "times have changed. Now we have an attorney general that strongly supports the Violence Against Women legislation and is standing with us today in support of that legislation; the president of the United States, President Clinton, strongly endorses it; a strong majority of the United States Senate and the House support the legislation..."[191] The Sun framed the conference in a positive light, using quotes from those that spoke at the conference to show that the VAWA and Crime bill should be passed.[192]

Women's advocacy groups leaped on the chance to influence Congress on the VAWA after the murder of Nicole. The National Organization for Women (NOW) brought NOW members, experts, as well as members of Congress on the steps of the Capitol to urge the committee to pass a VAWA that was "fully funded," meaning a VAWA that allocated $1.8 billion as suggested by the Senate.[193] Patricia Ireland opened the rally with a statement that, "We don't know whether or not O.J. Simpson killed her, but we do know that Nicole Brown Simpson was murdered by someone, that she was the battered wife of a big sports hero...and that the system failed both of them."[194] There

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[190] Senator Biden, w/ Attorney General Janet Reno, Senator B. Boxer, Representative Charles Schumer, Rep. Lousie M. Slaughter, and Rep. Patricia Schroeder, "Press Conference," Federal News Service (19 July 1994). (online lexis-nexis 28 January 2002)

[191] Senator Biden, w/ Attorney General Janet Reno, Senator B. Boxer, Representative Charles Schumer, Rep. Lousie M. Slaughter, and Rep. Patricia Schroeder, "Press Conference," Federal News Service (19 July 1994). (online lexis-nexis 28 January 2002)

[192] Roger Simon, "Women among casualties of impasse on crime bill," The Baltimore Sun (20 July 1994) 2A (online lexis- nexis 13 February 2002)

[193] Meredith Sobel, "NOW Tells Congress O.J. Case Shows Need for New Law," National NOW Times Vol. XXVI, No.5, (September 1994.) 1

[194] Sobel

was also much more media coverage of the rally, a rally that the press would have hardly noticed only a month before. USA Today mentioned the rally as part of a larger story about the rise in domestic violence legislation, stressing the demands at the rally "that the crime bill before Congress include the Violence Against Women Act, which would provide $1.8 billion for prevention."[195] It is interesting to note that the figure of $1.8 was the recommended appropriation from the Senate, the House figure was much lower. The Portland Oregonian carried the story of the rally in more detail. The opening line subtly stated the importance of the VAWA, writing, "The crime bill won't be complete without an effective section on domestic violence,"[196] though the paper paraphrased Rep. Pat Schroeder's statement at the rally, it was this telling first line that set the tone for the rest of the story. Perhaps Representative Nita Lowy, (D-NY) illustrated the influence of the Simpson case best when she stated, "Before this week, domestic violence was America's ugly little secret...Now it's front page news."[197] The Buffalo News focused their story of the rally on the statements of Attorney General Reno, as well as the $900 million the Senate version would provide "for local programs to curb domestic violence and protect battered women,"[198] further mentioning that there would be new penalties for violence against women. Clearly the media coverage of the VAWA increased after Nicole Brown Simpson was murdered, and O.J. Simpson sat in jail as the accused.

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[195] Patricia Edmonds, "A Call to Arms Against Spouse Abuse" USA Today final edition, (23 June 1994) 03A. (online Dow Jones Interactive 21 January 2002)

[196] Don Hamilton, "Domestic Violence Bill Championed," Portland Oregonian (23 June 1994) C12. (online Dow Jones Interactive 21 January 2002)

[197] Hamilton

[198] Douglas Turner, "Reno Urges Tougher Stance on Cases of Domestic Violence Seeks Funds for Program to Protect Battered Women," Buffalo News (23 June 1994). A17 (online dow jones interactive 21 January 2002)

The rise in media coverage of the VAWA after the Simpson murders, raised awareness and public pressure to a point where the conference committee as well as the entire Congress had to show that they too cared about domestic violence. There was a great deal of coverage that focused on the importance of the VAWA as part of the crime bill, and the influence the murder of Nicole Simpson had on Congress. Larry King opened his June 22nd show stating, "The campaign for the passage of the Violence Against Women Act has been ongoing for four years. The Nicole Simpson murder could give the act the push it needs to get it through Congress."[199] A story expressing the influence of the Simpson saga on the conference committee appeared in the Rocky Mountain News stating, "Domestic violence has been debated for years in Congress. Now the O.J./Nicole Brown Simpson case has added urgency to the debate set to resume this week as House and Senate conferees negotiate the crime bill."[200] The story went on to quote Representative Patricia Schroeder who stated, "I just hope we do everything we can after this tragic weekend to see that we never, never again see police officers winking at this bloody, awful violence."[201] Republican Representative Connie Morella gave an interview on CNN in support of the VAWA, interestingly when asked about funds for the VAWA she said, "The entire Violence Against Women Act uses the funding very judiciously and very prudently and it's $1.8 billion."[202] This is an interesting point because although Morella was a member of the House, and the House bill would provide

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[199] Larry King, " Larry King Live June 22, 1994" CNN Radio TV Reports, (22 June 1994: 9:00 pm ET). (online lexis-nexis 28 Jan. 2002)

[200] "Legislative Battering on Agenda," Rocky Mountain News (24 June 1994) 41a (online lexis-nexis 18 December 2001)

[201] "Legislative Battering on Agenda,"

[202] Andrea Areeneau, "Congresswoman Proposes Wide Range of Protections," CNN News (24 June 1994: 8:16am ET) Transcript #779-9. (online lexis-nexis 28 January 2002)

only $700 million over three years.[203] she gave the Senate figure of $1.8 billion. Perhaps the most commonly read publication on Capitol Hill, Congressional Quarterly, also jumped on the domestic violence legislation bandwagon. CQ pointed out that legislation had been crafted for years, though they acknowledged that many supporters were "using the Simpson case to turn up the heat."[204] Yet while Senate Judiciary Chairman, and sponsor of the VAWA, Joseph Biden, Jr. may have "made it a priority in (the) year's crime negotiations,"[205] before the murder of Nicole, CQ barely acknowledged the bill before the murder. In fact when the Senate voted on the bill on the VAWA of 1993 on the 19th of November, the vote did not make the "important vote" list in CQ, nor did the House vote on HR 3355 (the VAWA) on the 21st of April, or an accompanying bill on the 5th of May. By June 30th "Inside Politics" on CNN was highlighting the testimony of battered women before Congressional panels, though there had been four previous years of testimony that received little attention. The host of "Inside Politics" attributed this to the Simpson saga, saying, "The O.J. Simpson case has prompted even the U.S. Congress to look more closely at the domestic violence issue."[206] Just after that remark, as the camera focused on the next anchor, Bernard Shaw, who when caught with a grin on his face apologized for smiling as the "subject is very serious."[207] This apology would not

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[203] Holly Idelson "A Tougher Domestic Violence Law," Congressional Quarterly Vol. 52 no25. (25 June 1994) 1714

[204] Holly Idelson "A Tougher Domestic Violence Law," Congressional Quarterly Vol. 52 no25. (25 June 1994) 1714

[205] Idelson

[206] Candy Crowley, "Battered Women Testify Before Congressional Panel," CNN Inside Politics (30 June 1994: 4:55pm ET) Transcript # 614-6. (online lexis-nexis 28 January 2002)

[207] Crowley

have come only weeks before the program aired. Candy Crowley a CNN reporter put the influence of the Simpson case best when she said "Domestic violence has hit the front pages and the headlines. It is, as they say in politics, 'a hot button issue'. There are congressional hearings and congressional resolutions and photo ops for would be congressmen."[208] Finishing her story Crowley said "Nicole Simpson has become a symbol. Friends say she wanted to be a wife and mother."[209] Indeed Nicole had become a symbol for domestic violence victims and a catalyst to end the violence through the VAWA.

A moderate amount of controversy over the VAWA remained in the wake of the murder of Nicole Simpson. "Some opponents of the crime bill (..) characterized it as pork barrel legislation, calling it a multi-billion-dollar package of social programs instead of a tough crime-fighting measure."[210] The VAWA received a lot of criticism as part of the bill. In part this criticism came from the large amount attached to the bill of $1.8, but the main point of controversy remaining for the VAWA to pass as the full Senate version was Title III. After praising the bipartisan support for the VAWA, CQ admitted that "the political consensus on the Violence Against Women Act does not extend to a Senate provision that would create a federal civil rights violation for violent crimes motivated by gender bias."[211] The provision remained controversial in the press and among

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[208] Crowley

[209] Candy Crowley, "Battered Women Testify Before Congressional Panel," CNN Inside Politics (30 June 1994; 4:55pm ET) Transcript # 614-6. (online lexis-nexis 28 January 2002)

[210] "Some Congressmen Critical of Violence Against Women Act," Morning Edition. host. Bob Edwards, narr. Maria Hinojosa, National Public Radio, (18 August 1994). (online, npr.com, 20 February 2000).

[211] Holly Idelson "A Tougher Domestic Violence Law," Congressional Quarterly vol. 52 no25 (25 June 1994) 1714

conservative members of Congress. "The provision – considered virtually unthinkable by mainstream politicians just a few years (before) when feminists started pushing it – (was) an acknowledgment that women, like members of racial and ethnic minorities, may become victims of crimes simply because they are women."[212] At the time eight states, California, Connecticut, Michigan, Minnesota, New Hampshire, North Carolina, Vermont and West Virginia, already had provisions in their hate crime laws that enhanced penalties for biased crimes motivated by gender, but none went as far as the federal version.[213] Representative Mike Synar, a Democrat from Oklahoma, felt the provision "really (begged) the question of whether or not we may be overreacting to the sense of whether or not civil rights are being protected."[214] Still this provision was important to many feminists, and feminist supporters, as more than anything the measure was a "symbolic statement against mistreating women, as well as a practical recourse for women whose domestic violence complaints often are not taken seriously in state criminal justice systems dominated by men."[215] Representative Don Edwards, D-CA, described it as "sort of a desperation measure."[216] Desperation or otherwise the conference committee reported out the Crime Bill with a VAWA that created gender-based civil rights. But one civil rights expert, Cass Sunstein, a University of Chicago law

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[212] Roni Rabin, "New Grounds For Suing: Federal Bill Would Allow Lawsuits In Gender-Bias Crimes." Newsday (4 Aug. 1994). A 04 (online lexis-nexis 20 February 2000)

[213] Roni Rabin, "New Grounds For Suing: Federal Bill Would Allow Lawsuits In Gender-Bias Crimes." Newsday (4 Aug. 1994). A 04 (online lexis-nexis 20 February 2000)

[214] "Some Congressmen Critical of Violence Against Women Act," Morning Edition, host. Bob Edwards, narr. Maria Hinojosa, National Public Radio, (18 August 1994). (online, npr.com, 20 Feb. 2000.)

[215] Holly Idelson "A Tougher Domestic Violence Law," Congressional Quarterly vol. 52 no25 (25 June 1994) 1714

[216] Idelson

professor, felt "The issue may be less of one of overacting to a problem, and more one of symbolism."[217]

Those who supported Title III and its' symbolic meaning constitutionally justified the provision under Article I, section 8.3, the commerce clause. Five years of hearings and research backed up the need for this provision as well as the economic justification. As Leslie Wolfe, director of the Center for Women Policy Studies, stated "We (women) edit our lives, whether we consciously realize it or not around violence...There are places we don't go, things we don't do – that men don't think twice about – because of the threat of violence."[218] Because women were editing their lives in this manner, discrimination based on gender was clear, as was the need for a civil rights remedy to protect women, and men, from gender based discrimination. Ruth Jones of the National Organization for Women Legal Defense Fund, put it in a different manner when she stated, "People are now beginning to accept the notion, well, perhaps violence against women is not simply because a woman happens to be at the wrong place at the wrong time, or her dress is too short, or she didn't get dinner on the table for her husband. That's not the cause of violence against women; that perhaps there is a fundamental issue of discrimination."[219] Congress understood that domestic violence had a significant effect on the national and interstate economy. They knew that incidents of domestic

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[217] "Some Congressmen Critical of Violence Against Women Act," Morning Edition, host. Bob Edwards, narr. Maria Hinojosa, National Public Radio, (18 August 1994). (online, npr.com, 20 Feb. 2000.)

[218] Maples, Pam, "Domestic Violence: Old Problem, New Attitudes Attacks on Women Are a Form of Hate Crime, Many Feminists Argue," Dallas Morning News (13 June 1993): B04. (online, Electric Library, 14 March 2001)

[219] Maria Hinojosa, "Some Congressmen Critical of Violence Against Women Act," Morning Edition NPR (18 August 1994: 6:00am ET). Transcript # 1414-2. (online lexis-nexis, 28 January 2002)

violence cost employers and the health care system millions of dollars each year.[220] Furthermore Congress ensured that a gender bias had to be proven to fall under the provisions of the new law. "Under the bill, a rape victim would have to prove that her attacker had shown bias by deliberately seeking out a female victim, using excessive force, mutilating the victim or expressing his hatred of women during the crime."[221] People linked Title III to the Simpson case, asking how it would apply; the answer was that the family could "sue O.J. Simpson for damages for violating Nicole Simpson's civil rights...on the basis of sex."[222]

Title III, however, was not the only important aspect of the VAWA legislation. In the other portions of the "Safe Homes Act" many new programs were established including: a grant for a domestic violence national hotline, guidelines for interstate enforcement, formalized encouragement of an arrest policy for domestic disputes, grants for battered women's shelters, youth education and community programs on domestic violence.[223] Part of the grant to establish a hotline was used to "publicize the hotline to potential users throughout the United States."[224] The publicity for the hotline, it was felt would understandably raise awareness of domestic violence. The interstate enforcement section established guidelines for punishment, and provided restitution for victims of domestic violence. Included under the section for community programs was a provision

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[220] R. Robert Tyson "The Price of Violence; Health Care Costs Directly Reflect Our Social Problems," Pittsburgh Post-Gazette (7 August 1993) D3, (online lexis-nexis 14 February 2002)

[221] Roni Rabin, "New Grounds For Suing: Federal Bill Would Allow Lawsuits In Gender-Bias Crimes." Newsday (4 Aug. 1994). A 04 (online lexis-nexis 20 February 2000)

[222] Rabin

[223] Public Law 103-322 [H.R. 3355]. "Violent Crime Control and Law Enforcement," (September 1994) Title IV, subsection B-Safe Homes for Women Act of 1994 . (Online, lexis-nexis, 16 Feb 2000.)

[224] Public Law 103-322

for the Secretary to "provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence."[225] Indeed, most of the allocated $1.8 billion was appropriated for programs at the local level, "an approach that the sponsors of the Bill believed was the most promising technique for reducing crime and violence."[226] The hope was that as these local projects were implemented, society's view of domestic violence would begin to fully condemn such acts of violence, making the effects of the passage of VAWA felt almost immediately

On the day that debate began in the Senate over the crime bill, Attorney General Janet Reno, went not to a prison, or a police station, but to a battered women's shelter in order to promote the bill.[227] Clearly this action was strongly linked to the increased awareness of domestic violence after the murder of Nicole Simpson. Societal norms now condemned wife battering, the legal system needed to legally formalize this new norm; the "Safe Homes Act" of the VAWA was designed to legitimize this norm. When all was said and done the crime bill passed in the senate 61 to 38. Though 38 Senators voted against the bill, none came out publicly to say the VAWA was their reason for not voting in favor of the bill to do so would have been politically disastrous. In fact, though conservative Senator Orrin Hatch "called the bill a gravy-sucking hog of a bill," he reiterated that he played a large role in the crafting of the VAWA and that it was an

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[225] Public Law 103-322

[226] Alison Siskin, Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation, (RL30871, Washington DC: Congressional Research Service, 23 February 2001) 1.

[227] JC Hayward and Christ Gordon, "Local News" CBS Eyewitness News at 5; WUSA; Washington, DC" (22 August 1994: 5:00 pm ET) . (online lexis-nexis 28 January 2002)

important piece of legislation.[228] Indeed it was important, yet in all likelihood it would not have been as extensive, and might not have passed, had a former football hero not been arrested for the brutal murder of his former wife.

[228] Donna Kelley, "Hatch Says Crime Law Is a 'Gravy-Sucking Hog of a Bill." CNN News (26 August 1994: 9:28am ET) Transcript # 704-6 . (online lexis-nexis 28 January 2002)

Chapter Five:

The Early Societal Effects of the VAWA (1995-2000)

In June of 1993, Massachusetts Attorney General, Scott Harshburger, asserted that "without a dramatic change in societal attitudes...we will continue to have future generations who have grown up in families where violence is present, and society will continue to bear the burden of human and fiscal costs resulting from that violence."[229] This "dramatic change in societal attitudes" occurred just over a year after Mr. Harshburger's statement, with the passage of the Violence Against Women Act of 1994. In July 1994, before the public fully began this cultural shift, only 24 percent of women were willing to report they were physically abused by a spouse or boyfriend; by 1995 this percentage had risen to 30.[230] The rise in the reporting of domestic violence presumably came out of increased knowledge of its scope as well as the new criminality of domestic violence that came with VAWA 1994. The VAWA had risen from obscurity to become a vital factor in removing the stigmatism that surrounded the domestic violence victims. While in July 1994 only 80 percent of respondents believed that there should be outside intervention if a man hit his wife, 87 percent agreed to this statement in 1995. In the same span of time, fewer people (18 percent) believed that reporting domestic violence to the police was not very helpful than those in 1994 did (29 percent).[231] Clearly, progress was made in tearing away the veil that for so long cloaked domestic violence as a private

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[229] Bob Hohler, "Family Violence Report Urges Reforms; Some proposals need more Mass. Funds." The Boston Globe 1 June 1993) Metro: 13, online, lexis-nexis, 31 March 2000.

[230] Ethel Klien, Jacquelyn Campbell, Esta Soler and Marissa Ghez, Ending Domestic Violence (CA: Sage, 1997) table 2.6, 26.

[231] Klien, 93

acceptable matter in our homes, and the Violence Against Women Act played a vital role in this process.

Coverage of domestic violence did not end with the murder trial of O.J. Simpson, nor the funding of the VAWA. A Huston Chronicle article rhetorically asked, "Is domestic violence an epidemic in this country?," to which they answered, "the evidence stares us in the face very day from TV news and the morning paper."[232] The same article, somewhat unknowingly, demonstrated the societal change that had occurred saying that "society points its finger at the men who batter,"[233] while only a year earlier society all but ignored the batterer. The Christian Science Monitor found that there was "a very positive outcome of (the) awful tragedy"[234] of the Simpson case. They found that police departments and officers had become "more sensitive and responsive to domestic abuse complaints. (And) education seminars are far more common."[235] There was also a marked change in the way celebrity batterers handled their own incidents of domestic violence. When Warren Moon of the Minnesota Vikings was arrested on a domestic violence charge he held a press conference. Sports writers called the image of Moon before his arrest "impeccable," and his image after the arrest was "tarnished."[236] At his press conference Moon apologized saying, "I've made a tremendous mistake and take full

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[232] Melissa Fletcher Stoletje "What's Wrong With This Picture?" Huston Chronicle (11 November 1995) 2 STAR. (online Dow Jones Interactive 18 December 2001)

[233] Stoletje

[234] Untitled, Christian Science Monitor (15 August 1995) All

[235] Untitled

[236] Gary Meyers "Tarnished Moon on Mission to Keep Home Life, Image in Tact," Daily News (New York) (06 August 1995) Sports 61. (online lexis-nexis 12 March 2002)

responsibility for it," adding that he was seeking counseling to prevent future incidents of violence.[237]

The VAWA programs were implemented quickly, as "the Justice Department moved quickly to translate the legislative concept to a functional reality."[238] Shortly after the passage of the VAWA, President Bill Clinton stated, "For too long domestic violence has been considered purely a private matter. From now on it is a problem we all share."[239] It was through the VAWA, the murder of Nicole and the arrest of O.J., which surrounded the passage of the VAWA, that the country was forced to share the problem of domestic violence. "The VAWA hearings [had] provided a national wake-up call about a shockingly high rate of battering in our society and a sadly inadequate response. Congress documented that the system of justice, (our police departments, prosecutors, and courts), deeply infected with gender bias, often failed to respond to domestic violence as a crime or blamed the victim for the violence."[240] In order to amend some of the inadequacies that were revealed during the VAWA hearings, several states including New York, Connecticut, New Jersey, California and Mississippi passed their own domestic violence laws. Many of these "provisions include(d) mandatory arrests in the case of a complaint, more stringent penalties for repeat offenders and training in how to respond to domestic violence for law-enforcement officials," in addition to the programs

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[237] Thomas Boswell "A Troubled Lineup," Washington Post (28 July 1995) F01. (Online lexis-nexis12 March 200)

[238] Martha Burt, Lisa Newmark, Mary Norris, Daryl Dyer, Adele Harrell, The Violence Against Women Act of 1994: Evaluation of the STOP Block Grants to Combat Violence Against Women (DC: The Urban Institute 1996) v

[239] Bill Clinton, "Statements on the Violence Against Women Act," White House Briefing Federal Information Systems (21 March 1995), (online, lexis-nexis, 12 April 2001)

[240] Pamela Coukos, "Outlawing Domestic Violence," Civil Rights Journal, v3 i1 (Fall 1998): 29, (online, infotrak, 14 March 2001).

provided through VAWA.[241] In short, the states came together with the federal government in what Peter B. Edelman, (acting assistant secretary for planning and evaluation for the Department of Health and Human Services), described as "a long term effort to change the fundamental culture"[242] that had encouraged keeping spousal abuse as a private matter. Once legislation had identified domestic violence as a crime, the next step was funding the authorized programs; for without adequate funding the anti-abuse programs could not succeed in their missions.

In Fiscal Year 1995 (FY95), Congress appropriated a total of $28 million for the Violence Against Women Programs. The majority of the funding, ($26 million), went towards law enforcement and prosecution grants (STOP Grants) that year; grants for battered women's shelters and community programs on domestic violence received $1 million a piece. Every year after, funding for violence against women programs increased, and new programs were added throughout the years; current funding (Fiscal Year 2001) stands at a total of $407.76 million. Still, obtaining adequate funding has often been a daunting task, in large part due to the Republican Party leadership, which often blocks efforts to increase funding to the highest levels. For example, in 1995 Democrats in the House attempted to increase FY96 funding by $61 million over the then allocation of just $75 million, (of the $175 million authorized under the VAWA), this proposal was rejected by the Republican leadership.[243] Actions like this caused "the

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[241] "US Domestic Violence a Central National Issue" WIN News v 21 n4 (Autumn 1995): 79, (online, infotrak, 16 Feb. 2000).

[242] "US Domestic Violence a Central National Issue" WIN News v 21 n4 (Autumn 1995): 79, (online, infotrak, 16 Feb. 2000).

[243] Dan Morgan, "House Appropriators Resist Adding Funds for Women," The Washington Post (20 July 1995). (online lexis-nexis 8 April 2001).

Republican Party (to be) stung by criticism that it (was) short-changing women, even though a … $ 28.3 billion spending bill for the Commerce, Justice and State departments allocate(d) $ 75 million for the Violence Against Women Act, triple the amount provided…" in 1994.[244] In the end, the House plan allocated $115 million, while the Senate plan allocated the full $175 million for violence against women programs.[245] The compromise plan provided $174.5 million to the Department of Justice and an additional $52.6 million to the Department of Health and Human Services for a grand total of $227.1 million. The funding of these vital programs led to changes in the prosecution of domestic violence, and the perceptions of the problem that few people had imagined possible just a few years earlier.

In 1996, Attorney General Janet Reno summarized the effect VAWA had made on society in only two years, stating:

> Just consider, before the Violence Against Women Act, if a state wanted to train its law enforcement officials on how to respond to domestic violence calls or wanted to provide services and advocates to victims of crime, they lacked crucial resources.
> Today, we have already provided states and territories with $26 million, and will provide $130 million in fiscal year 1996, providing states with a greater ability to train their law enforcement officers, hire more prosecutors and provide assistance to victims of violence…
> Before the Violence Against Women Act, a batterer who brutally beat his partner and then drove her across state lines to leave her at a hospital, would likely escape prosecution because of jurisdictional problems.

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[244] Morgan

[245] Ann Devroy, "Clinton Shines Spotlight on Family Violence; Agencies Urged to Run Programs About Issue", Washington Post (3 Oct. 1995: A08). (online, lexis-nexis, 8 April 2001).

> Today, these batterers are prosecuted, convicted, and sent to jail for years because of the newly created federal crime of interstate domestic violence.[246]

Clearly, the VAWA had a dramatic effect on society. In large part this was because the legislation had legitimized a new societal norm that viewed domestic violence as a crime.

The foundations of this societal norm were sparked by increased awareness of domestic violence that was cultivated beginning with the first Domestic Violence Awareness Month in 1989. While the first Domestic Violence Awareness Month was officially declared in 1989, its effectiveness increased in the post-VAWA era. A study found that "awareness of the problem increase(d) significantly in October,"[247] which is the observed month. In 1995, President "Clinton proclaimed October Domestic Violence Awareness Month and cited a recent Justice Department study that showed women were six times more likely than men to suffer from domestic violence and that husbands, former husbands or boyfriends were responsible for the deaths of nearly one-third of all women killed in the United States in 1992."[248] This study was conducted because of VAWA regulations, which aimed to increase knowledge of the scope of domestic violence. Congress continued to demonstrate their acknowledgement of domestic violence as a crime even after O.J. Simpson was acquitted and the VAWA had been passed and implemented.

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[246] Janet Reno, "Prepared Statement of Janet Reno Attorney General Before the Senate Committee on the Judiciary Concerning the Violence Against Women Act," testimony. Federal Information Service (15 May 1996). (online, lexis-nexis, 12 April 2001.)

[247] Bill Thompson, "Awareness of Domestic Violence Increases in October," The Tampa Tribune (1 Oct. 1997): PASCO 1 (online, lexis-nexis, 10 April 2001).

[248] Ann Devroy, "Clinton Shines Spotlight on Family Violence; Agencies Urged to Run Programs About Issue", Washington Post (3 Oct. 1995): A08. (online, lexis-nexis, 8 April 2001)

In May 1996 the Senate Judiciary Committee "influenced by the surge in public interest and concern over domestic violence inspired by the Nicole Brown-Simpson murder trial,"[249] held hearings on combating violence against women. At this hearing the Senators emphasized that domestic violence was no longer only a woman's issue, but a societal problem.[250] In her testimony then Attorney General Janet Reno called the VAWA "a turning point in our national response to the problem() of domestic violence."[251] As another sign that Congress had not forgotten Nicole Brown Simpson, they called her sister, Denise Brown to testify at the hearing. Senator Orrin Hatch asked Denise Brown if she felt that progress had been accomplished in combating domestic violence with the implementation of the VAWA. Brown sighted the "tremendous increase in mandatory arrest policies" as evidence of the accomplishments VAWA had achieved in its short lifespan.[252] Senator Biden commented on the change in societal attitudes since he first introduced domestic violence legislation, commenting that he had "received hate mail from men who believed that this issue should be left in the confines of the home. He noted that this attitude has gradually changed and many men have become involved in combating battery."[253] In his concluding remarks, Senator Orin

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[249] Jennifer Wehner, "Combating Violence Against Women," Senate Judiciary FDCH Congressional Hearings Summaries (15 May 1996) (online Lexis-nexis 22 February 2002).

[250] Wehner

[251] Wehner

[252] Wehner

[253] Wehner

Hatch, (R-UT), the Chairman of the Judiciary Committee, stated that "we (the Congress) are going to keep this ball rolling" by continuing to fully fund the VAWA.[254]

Since 1994, "the Departments of Justice (DOJ) and Health and Human Services (HHS), which administer the grants under VAWA, have produced a series of reports on the methods of assessing and preventing gender-related crimes."[255] In 1997, 53 percent of Americans surveyed acknowledged that they personally knew of a situation where a husband or boyfriend had physically abused a woman.[256] Yet, while a majority of Americans knew someone who had been abused, and therefore an abuser, only 105,000 people were arrested in 1997 for "offenses against family and children." An additional 370,000 people were charged with aggravated assault against an intimate.[257] These arrests may be attributed to the fact that in 1997, 85 percent of police and sheriff departments had a community related domestic dispute written policy.[258] Another study conducted in 1997 found that 36 percent of assault and murder victims were either related

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[254] Jennifer Wehner, "Combating Violence Against Women," Senate Judiciary FDCH Congressional Hearings Summaries (15 May 1996) (online Lexis-nexis 22 February 2002).

[255] Alison Siskin, "Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation," CRS Report for Congress (DC: Congressional Research Service, 23 February 2001) 1

[256] Bureau of Justice Statistics "Respondents Reporting Knowing Of A Situation Where A Woman Has Been Physically Abused By Her Husband Or Boyfriend, By Demographic Characteristics, United States, 1997," Sourcebook of Criminal Justice Statistics, 1998 (DC: Congressional Information Service, 1999), (online lexis-nexis 12 April 2001).

[257] Bureau of Justice Statistics, "Arrests By Offense Charged, Age Group, And Race, 1997," Sourcebook of Criminal Justice Statistics, 1998, (DC: Congressional Information Service, 1999). (online, lexis-nexis, 12 April 2001).

[258] Bureau of Justice Statistics, "Community-Related Written Policy Directives In Sheriffs' Departments, By Size Of Population Served, 1997," Sheriff's Departments, 1997 (DC: Congressional Information Service, Inc, Feb. 2000) 18. (online, lexis-nexis, 12 April 2001.)

to, or well known to their assailants.[259] A more comprehensive study on domestic violence, conducted by the Department of Justice (DOJ) and Health and Human Services, (HHS) in 1998, sought to define the extent of the endemic of violence against women, including spousal abuse. Among other findings they found "physical assault ranging from slapping and hitting to gun violence is widespread: 52 percent of women said they were physically assaulted as a child by an adult caretaker or as an adult by any type of perpetrator, and 19 percent of women said they were physically assaulted in the previous 12 months."[260] The data from this study also broke down the stereotype that strangers committed most of the violence against women. In fact, it was found that "violence against adult women is primarily partner violence: 76 percent of the women (compared to 18 percent of men) who were raped or physically assaulted or both since age 18 said the perpetrator was a current or former spouse, a co-habiting partner, or a date."[261] Of these abused women, about one in three required medical care resulting from their assault.[262] Yet, while these numbers remained high, a later study published in 2000, showed that the rates of violence against women dropped dramatically between 1993 and 1998. In fact, there were 20 percent fewer attacks against women in their homes in 1998 than in 1993.[263] The decline in domestic violence crime was attributed to "more aggressive and

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[259] Bureau of Census, "Victim-Offender Relationship In Crimes Of Violence, By Characteristic Of The Criminal Incident: 1997," Statistical Abstract of the US…1999 (DC: Congressional Information Service Inc., 2001) 221, (*online, lexis-nexis, 12 April 2001.)

[260] Alison Siskin, "Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation" CRS Report for Congress (Congressional Research Service,23 February 2001) 2

[261] Alison Siskin, "Violence Against Women Act: History, Federal Funding, and Reauthorizing Legislation" CRS Report for Congress (Congressional Research Service,23 February 2001) 2,3

[262] Sisken. 3

[263] "Rate of Domestic Violence in US," Morning Edition host. Bob Edwards, narr. Madeleine Brand, National Public Radio, (18 May 2000). (online, lexis-nexis, 12 April 2001.)

sensitive policing, more hot lines, more shelters and the gradual easing of the social stigma,"[264] which arose from the VAWA legislation. Criminologist James Alan Fox, of Northeastern University, felt that a large reason for the new domestic violence statistics was that victims had new escape routes. "Rather than staying in a relationship to the point of becoming a murder victim, people in domestic abuse situations now have alternatives, from restraining orders and hotlines to shelters, support groups and mandatory arrest procedures."[265] Still, while the reported rates of domestic violence were falling, many domestic violence experts were troubled by the report, because while assault rates were down the murder rates for women remained stagnant.[266]

From the data found from the numerous studies conducted since 1995, it is evident that the VAWA did not end violence against women. One reason for this is that "Leaving the abusive relationship does not necessarily end the abuse."[267] However, it is clear that the VAWA did alleviate the endemic of domestic violence. A 1999 study found that "the number of men killed by their girlfriends, wives and ex-wives has dropped by more than two-thirds nationally," since 1976.[268] That year,

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[264] "Rate of Domestic Violence in US," Morning Edition host. Bob Edwards, narr. Madeleine Brand, National Public Radio, (18 May 2000). (online, lexis-nexis, 12 April 2001.)

[265] Eric Lichtblau, "Domestic Abuse Incidents Fall 21%, Study Finds," Los Angeles Times (18 May 2000) A1.1. (online lexis-nexis 22 March 2002)

[266] "Rate of Domestic Violence in US," Morning Edition host. Bob Edwards, narr. Madeleine Brand, National Public Radio, (18 May 2000). (online, lexis-nexis, 12 April 2001.)

[267] Linda A. Osmundson, "Federal law will provide help to battered women," St. Petersburg Times (10 Aug. 1995): 15A. (online lexis-nexis, 8 April 2001).

[268] Jan Ford, and Deborah Mobley, "Domestic Violence Programs Save Men's Lives, Study Says; Research Shows Women Using Options Other Than Deadly Force Against Abusers," The Washington Post (14 March 1999): C01. (online, lexis-nexis, 13 April 2001)

> 1,357 men and 1,437 women nationwide were killed by their partners ... The number of male deaths, which declined steadily over two decades, fell to 430 by 1997. Female deaths held steady for many years before beginning to drop in the 1990s -- as homicide rates in other categories also fell. But in 1997, there were still 1,174 women killed in domestic violence cases.

The researchers theorized that the drop in male deaths had occurred because abuse prevention programs like those provided through the VAWA focused on getting women to change their behavior by leaving an abusive relationship before it became necessary to use deadly force to stop the abuse. And while the death rate for women in domestic violence cases remains stagnant the rate of non-lethal assaults by husbands or boyfriends, including sexual assaults or robberies, dropped by 23 percent between 1993 and 1996.[269] Clearly, this shows that the VAWA was successful in reducing violence against women. However, while progress was made in the early years following the passage of the VAWA, a large set back was to come in 2000 when the Supreme Court struck down Title III of the act.

[269] Ford

Chapter Six:
Supreme Court Strikes Down Gender-Based Civil Rights

Title III of the VAWA, providing for gender-based civil rights, was hailed "as a major step forward for women's equality."[270] Like the 1964 Civil Rights Act, which also provided remedy for hate crimes, Congress passed VAWA Title III under the commerce power. Congress did not take this action lightly, in fact, "...when passing the VAWA Congress held considerable hearings purporting to show how fear of violence would give women inhibitions about traveling or working at night, and about how much violence against women costs the economy."[271] These hearings seemed to prove that discrimination against women was occurring, that it was affecting the economy and furthermore that a remedy was necessary. However, the Supreme Court in *United States v. Morrison* held that Congress had "no authority under either Federal Constitution's commerce clause or 5 of Constitution's Fourteenth Amendment to enact (Title III), providing federal civil remedy for victims of gender-motivated violence."

The case of *United States v. Morrison* involved a female Virginia Tech student, Christy Brzonkala, who was raped by two male students.[272] Ms. Brzonkala sued under public law 42 USCS 13981 – the law created from Title III, maintaining that her rape violated her civil rights. The United States intervened in the case to defend the Constitutional validity of the law, which was questioned by the defense. The District

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[270] Sally Goldfarb "Statement of NOW Legal Defense and Education Fund on the Violence Against Women Act." Capital Hill Hearing Testimony. (Federal Document Clearing House, Inc. 16 November 1993), online, lexis-nexis, 24 Feb. 2001.

[271] George F. Will, "A revival of Federalism? A bold Supreme Court decision last week added fuel to a constitutional counterrevolution," Newsweek 29 May 2000: 78, online, lexis-nexis, 14 March 2001.

[272] *United States v. Antonio Morrison et. al; and Christy Brzonkala v. Antonio Morrison et. al.* Nos. 99-5 and 99-29 (529 U.S. 598; 120 S. Ct. 1740) 15 May 2000, online, lexis-nexis, 13 April 2001.

Court held that while Ms. Brzonkala had a valid claim under the law, Congress had overstepped its powers when creating the law. The Fourth Circuit of Appeals initially reversed the District Court, yet after rehearing en banc the Appeals Court affirmed the District Court's decision that Congress had overstepped its bounds. The Supreme Court affirmed this decision (5:4) not withstanding controversy. The majority opinion written by Chief Justice Rehnquist and joined by Justices O'Conner, Scalia, Kennedy and Thomas held that:

> (1) gender-motivated crimes of violence were not--in any sense of the phrase—economic activity; (2) 13981 contained no jurisdictional element establishing that a federal cause of action was in pursuance of Congress' power to regulate interstate commerce; (3) the Constitution required a distinction between what was truly national and what was truly local; (4) there was no better example of state police power than the suppression of violent crime and the vindication of victims; and (5) 13981 was directed at individuals who had committed criminal acts motivated by gender bias, rather than at a state or state actor.

However, the opinion was cloaked in confusion and controversy as many in the public felt under this reasoning other important pieces of legislation would not have been constitutional, including the 1964 Civil Rights Act. The four dissenting judges, in a dissent written by Justice Souter, held that "the sufficiency of the evidence assembled by Congress--showing the effects of violence against women on interstate commerce--could not seriously be questioned under a rational-basis standard."[273] Justice Breyer in dissent held that "virtually every kind of activity in the nation—due to centuries of scientific,

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[273] *United States*

technological, commercial, and environmental change--could affect commerce outside a specific state."[274] The majority of society seemed to agree with the dissenting judges.

Perhaps the largest area of support for the Violence Against Women Act, including Title III seemed to come from the States with 36 states joining an amincus brief supporting the law to the Supreme Court.[275] In the brief, the states asserted that the Violence Against Women Act "complement(d) state and local efforts to combat violence against women."[276] In fact, "They saw the law--and the provision that gave victims the legal right to pursue damages through federal lawsuits--as a legitimate way to address a growing problem that is local in nature but national in scope."[277] Only one state, Alabama, issued a brief asking the Court to strike down the law on the basis that the VAWA impeded on the sovereignty of the state. Still, under the Court's decision, the States were "forced to enjoy the new federalism whether they want(ed) it or not,"[278] as far as the VAWA provisions outside of Title III were concerned. Because of the shift towards "new federalism," some accused the majority of the Court of "using antiquated notions of states' rights that have been repudiated for decades to limit the authority of the federal government."[279] These antiquated notions rely on two main assertions that

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[274] *United States*

[275] Linda Greenhouse, "Battle on Federalism," The New York Times 17 May 2000: A18, online, lexis-nexis, 14 April 2001.

[276] Peter M. Shane, "In Whose Best Interest? Not the States'," The Washington Post , 21 May 2000: B05, online, lexis-nexis, 13 April 200.

[277] Shane, online

[278] Linda Greenhouse, "The Supreme Court: The Court on Federalism; Women Lose Right to Sue Attackers in Federal Court," The New York Times, 16 May 2000: A1, online, lexis-nexis, 14 April 2001.

[279] Erwin Chemerinsky, "Commentary, Perspective on Justice and Federal Law The Supreme Court Continues to Limit the Federal Government's Ability to Deal with Important Issues," Los Angeles Times, 18 May 2000: B11, online, lexis-nexis, 14 April 2001.

gender-based violence is not commerce and therefore, that Congress had overstepped its bounds.

There are many problems with the Court's assertions. The first is that by saying that gender-based violence has nothing to do with commerce, the Court:

> divorces the "commerce" clause from its history and purpose. Congress's authority over interstate commerce is part of a substantial menu of powers drawn up by the Committee on Detail at the 1789 Constitutional Convention. The committee wasn't interested merely in commerce; it was trying to fulfill the delegates' resolution that Congress should have the power "to legislate in all cases to which the separate states are incompetent . . .".[280]

Clearly, the states were unable to handle the problem of domestic violence, as it was a problem with national implications. As the States' Attorneys General wrote in their brief to the Court, "The States' own studies demonstrate that [their] efforts to combat gender-motivated violence, while substantial, are not sufficient by themselves to remedy the harm caused by such violence or to eliminate its occurrence."[281] Therefore, the VAWA legislation was necessary and proper to address the endemic of domestic violence and remedy the harm it caused. Furthermore, in case after case after the New Deal, the Supreme Court held that "Congress may regulate activity that is not itself interstate commerce, if the purpose of the regulation is to promote interstate commerce, relieve it of obstacles or prevent it from becoming the vehicle of social harm."[282] The experts who testified before Congress on the implications of domestic violence proved

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[280] Peter M. Shane, "In Whose Best Interest? Not the States'," The Washington Post, 21 May 2000: B05, online, lexis-nexis, 13 April 2001.

[281] Shane, online

[282] Shane, online

that such violence was affecting the economy through worker absenteeism and lost productivity, and therefore interstate commerce. In short, "Nothing in the Constitution's language or history supports letting the Supreme Court strike down laws just because it disagrees with Congress's assessment of how much they are needed."[283] This is what occurred with the Court's decision in *United States v. Morrison*, yet as Alexander Hamilton observed in 1792, "the degree in which a measure is necessary can never be a test of the legal right to adopt it."[284] Clearly, Congress had gone to great extents to justify Title III of the VAWA under the commerce clause and had proven its case. Therefore, it was not Congress, but rather the Supreme Court, which overstepped its bounds regarding Title III. Still, the Court made its decision, the effects of which were widespread.

Some advocates of the VAWA, including the chief Senate sponsor Senator Biden, felt that the impact of the Court's decision reflected more on the power of the Court than it impacted violence against women. At a news conference regarding the Court's decision Senator Joseph Biden (D-DE) stated, "The damage done to the act is not as bad as the damage done to American jurisprudence."[285] Still, there was anger over the Court's decision. As Senator Charles Schumer (D-NY) argued, "Just at a time when the economic and social conditions of the world demand that we be treated as one country and not as 50 states, the Supreme Court seems poised to undo decades and decades of

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[283] Larry Kramer, "The Arrogance of the Court," The Washington Post, 23 May 2000: A29, online, lexis-nexis, 23 Feb. 2001.

[284] Kramer, online.

[285] Linda Greenhouse, "The Supreme Court: The Court on Federalism; Women Lose Right to Sue Attackers in Federal Court," The New York Times, 16 May 2000: A1, online, lexis-nexis, 14 April 2001.

"a consensus that the federal government has an active role to play,"[286] Justice Souter seemed to agree with the opinion of Senator Schumer contending in his dissent that the decision could "only be seen as a step toward recapturing the prior mistakes" like those in the 1930s which rejected the New Deal legislation.[287] Many women's advocates, like "Kathryn J. Rodgers, executive director of the NOW Legal Defense and Education Fund, which represented Ms. Brzonkala ... criticized the decision, saying it took "the federal government out of the business of defining civil rights and creating remedies.""[288] Ms. Rodgers added that the decision would "be a severe blow for women's rights because of the chilling effect it will have on Congress."[289]

Indeed, the *Morrison* decision was only the latest in a recent string of cases favoring the rights of states over the people; the "decision in validating the Violence Against Women Act has perhaps more symbolic significance than any of those that came before it."[290] This symbolism arises because in previous decisions the Court struck down legislation, passed under the power of commerce, because Congress had not proven its case that the activity was commerce, but Congress had gone out of its way to prove economic implications of domestic violence through the VAWA hearings. As Professor Walter Dellinger of Duke University argued, "The one thing that is perhaps the most

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[286] Greenhouse, "The Supreme Court..." online

[287] Greenhouse, "The Supreme Court..." online

[288] Greenhouse "The Supreme Court..." online

[289] News Services, "Court Limits Suits by Rape Victims Against Attackers; 5:4 vote advances state's rights vs. federal government; decision angers women's groups," St. Louis Post-Dispatch, 16 May 2000: A1, online, lexis-nexis, 13 April 2001.

[290] "Sharply Divided US Court Rules that a Key Portion of the Violence Against Women Act is Unconstitutional," Morning Edition, host. Bob Edwards, narr. Nina Totenberg, 16 May 2000, online, lexis-nexis, 13 April 2001.

striking about the opinion is that it takes away Congress' ability to deal with state inaction, state under-enforcement, state racial- or gender-based failure to protect the people from legal violations. It takes away Congress' ability to remedy that in the most simple and direct way, and that is by creating a federal course of action."[291] However, the decision did not affect the criminal provisions within the VAWA and thus the VAWA remains to legitimize society's norm that makes domestic violence unacceptable.

[291] "Supreme Court Strikes Down Part of the Violence Against Women Act of 1994 as an Intrusion on State's Rights," All Things Considered, hosts Robert Siegel, Noah Adams, narr. Nina Totenberg, National Public Radio, 15 May 2000, online, lexis-nexis, 13 April 2001.

Chapter Seven:
Successes and Failures of the Violence Against Women Act

Progress was made in the fight against domestic violence with the Violence Against Women Act of 1994 (VAWA) and subsequent reauthorization in 2000. Where domestic violence was once a private matter, today it is known to be a social problem. Perhaps Peggie Reyna, project director for the Los Angeles Commission on Assaults Against Women, put it best when she observed, "It used to be that when someone slapped you around or gave you a black eye, you didn't think about reporting it, unless it was horrendous or you were hospitalized or something. That's changed."[292] As victims of a recognized social problem abused women, and their children, now have resources available to help them. "Rather than staying in a relationship to the point of becoming a murder victim, people in domestic abuse situations now have alternatives, from restraining orders and hotlines to shelters, support groups and mandatory arrest procedures."[293] These increased resources, and awareness thereof, has helped to increase the reporting of domestic abuse. While only 48 percent of victims filed reports six years ago, nearly 6 in 10 report their abuse today.[294] "With new laws and police training programs in many states, officers now are much more likely to make arrests in domestic situations that once were largely ignored as "private" matters, experts said. That has meant less of a stigma for victims and more of a deterrent for abusers who once had little

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[292] Eric Lichtblau, "Domestic Abuse Incidents Fall 21%, Study Finds," Los Angeles Times, 18 May 2000: A1, online, lexis nexis, 12 April 2000

[293] Lichtblau, online

[294] Lichtblau, online

fear of punishment."[295]

In 1993, the Department of Justice redesigned the National Crime Victimization Survey to more accurately measure violence against women.[296] Much of the new data, which shows a drop in the rate of abuse, is promising though areas of concern remain. While "most of the criticisms of VAWA and VAWA 2000 come from those who feel that violence is a problem of both men and women, and that both men and women are victims of domestic violence;"[297] yet, while some men are abused, "female victims still outnumber their male counterparts by a rate of more than 5 to 1..."[298] The good news is that the rate of violence against women is dropping, from "9.8 victims per 1,000 in 1993 to 7.7 per 1000 in 1998."[299] However, while the drop in domestic violence was significant, it did not fall at as great a level as the overall general violent crime rate, evidence that strides must still be made to further cut the rate of abuse. For, "some women still are at unusually high risk. Black women are victims at a rate 2 1/2 times more than that for other women. Also, particularly vulnerable are women who are divorced or separated, ages 20 to 24, or living in rental housing in an urban area.[300] While the number of abused women continues to fall, "more than a third of all women

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[295] Lichtblau, online

[296] Ronet Bachman, and Linda E. Saltzman "Violence Against Women: Estimates from the Redesigned Survey August 1995," NCJ-154348 Special Report, (Department of Justice, Bureau of Justice Statistics, 2000).

[297] Alison Siskin, "Violence Against Women Act: History , Federal Funding, and Reauthorizing Legislation," CRS Report for Congress (DC: Congressional Research Service, 23 February 2001). 6

[298] Eric Lichtblau, "Domestic Abuse Incidents Fall 21%, Study Finds," Los Angeles Times, 18 May 2000: A1, online, lexis nexis, 12 April 2000.

[299] Lightblau, online

[300] Lightblau, online

who go to emergency rooms in the United States are there because of domestic violence, and more than 250,000 women and children used shelters in 1997."[301] Still, "As many as seven little known studies that were reported in the 1970s concluded that at that time some form of spouse abuse occurred in between 50 percent and 65 percent of American Families. What seems to be an increase in abuse may simply be the effect of more publicity and a growing willingness of abused women to come forward."[302] It was studies such as this that prompted lawmakers to reauthorize the VAWA in 2000.

After the Supreme Court's *Morrison* decision some feared that the VAWA, which was expiring at the end of 2000, would not be reauthorized due to confusion resulting over the meaning of the Court's decision. While the act continued to receive bipartisan support and passed the House and Senate Judiciary Committees early in the legislative season, the conservative Republican Congressional leadership did not make it a legislative priority for the election year. This indifference remained for much of the year, although "the incidence of domestic violence (was) down because the law expanded awareness (so that fewer people turn a blind eye to abuse and more women seek help) and beefed up criminal prosecution, and that knowledge ought to (have) motivate(d) lawmakers to take action."[303] The inaction on the bill did not result from controversy, as the bill itself that "provide(d) $ 3.2 billion over the next five years for grants and programs that provide shelter, training and assistance for women and their children and

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[301] Rhonda McMillion, "Stronger Voice for Victims: Reauthorized Violence Against Women Act expands scope of programs," ABA Journal, 86 A.B.A.J. 98 (American Bar Association, Dec. 2000), online, lexis-nexis 21 April 2001.

[302] Michael Kronenwetter, Encyclopedia of Modern American Social Issues ABC-CLIO Santa Barbara 1997. "Spouse Abuse" p254

[303] Staff, "Reauthorize; Renew and expand the Violence Against Women Act," The Houston Chronicle 26 September 2000: A20. online, lexis-nexis, 13 April 2001.

domestic violence training for law officers,"[304] was acceptable to both parties. In the end, while progress was slow the VAWA was reauthorized. The House vote was 371 in favor, with "only Rep. Mark Sanford, a South Carolina Republican and strict fiscal conservative, (voting) against the legislation."[305] In the Senate there was unanimous approval for reauthorization after "Sen. Joseph R. Biden Jr., D-Del., attached a bipartisan compromise to a conference report containing several crime-related measures," in late October.[306] The VAWA Reauthorization Bill was much like the VAWA of 1994, without Title III, and a few new additions.

The bill also created a few new programs. While victims would no longer be able to sue for the violation of gender-based civil rights, a new program under VAWA 2000 created a civil legal assistance program which assures that victims will "have access to trained attorneys and lay advocacy services, particularly pro bono legal services, when the victims require legal assistance as a consequence of violence."[307] Another provision attempted to relieve the burden of finding housing by affording grant money for "short-term transitional housing assistance and support services for women and children after they leave shelters or when shelters are unavailable."[308] Still, though VAWA had already

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[304] William March, "McCollum touts legislative effort directed toward battered women," The Tampa Tribune, 6 Oct. 2000: Metro 9, online, lexis-nexis, 14 April 2001.

[305] Reuters News Service, "House OKs domestic violence bill," The Houston Chronicle, 7 Oct. 2000: A20, online, lexis-nexis. 14 April 2001.

[306] Rhonda McMillion, "Stronger Voice for Victims: Reauthorized Violence Against Women Act expands scope of programs," ABA Journal, 86 A.B.A.J. 98 (American Bar Association, Dec. 2000), online, lexis-nexis 21 April 2001.

[307] McMillion, online

[308] McMillion, online

made many strides in combating domestic violence, and VAWA 2000 pledged to accomplish even more, many felt that the legislation has not gone far enough.

Though there is more legislation now than ever prohibiting domestic violence, "all the laws (do not) change the fact that domestic violence continues to be the leading cause of serious injuries to women."[309] One area where more needs to be done in helping victims of domestic violence is in finding housing. It is too early to tell the impact that VAWA 2000's housing provision will have on providing housing for victims, but it is clear that there continued to be a temporary housing shortage under VAWA 1994. Currently, "there are half as many shelters for battered women as there are for stray animals, about 1,800 – and most do not accept children."[310] This shortage means that for all the progress that the VAWA, (as well as other legislation), made in forming domestic violence as a crime in the minds of the American people, "shelters continue to turn away women that they cannot serve, and women are still murdered by intimate partners at a dramatically high rate."[311] Hopefully, the short-term housing provisions in VAWA 2000 will alleviate this problem. Besides housing there are other areas where some feel the VAWA did not accomplish all of the goals.

The primary objective of the VAWA was to eradicate domestic violence from American society, yet intimate abuse remains a problem. Some feel that the VAWA failed in this objective because it only looked at violence against women, ignoring the needs of men who were also victims, and more often the perpetrators, of domestic

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[309] "Renewed Concern Sparks Awareness of Domestic Violence," Morning Edition, host Bob Edwards, narr. Isabel Alegria. National Public Radio, 23 June 1994, online, lexis-nexis, 14 April 2001.

[310] Frank McGuckin, Violence in American Society, (NY: H.W. Wilson Co., 1998) 64.

[311] Pamela Coukos, "Outlawing Domestic Violence," Civil Rights Journal, v3 i1 (Fall 1998): 29, online, infotrak, 14 March 2001.

violence. Most domestic violence legislation continues to focus on the female victim, rather than help for the abuser, nor often the male victim. There are many reasons why this is the case. One reason may be that when "you look at the face of a man who's being violent, ... it's terrifying. We don't want to deal with him, or his violence, so we expect the woman to change the situation."[312] In order to make a true impact on the level of domestic violence in the United States it is necessary to develop programs, which help those who abuse, not only their victims. Some state and local programs have already been developed and in many jurisdictions convicted offenders are required to participate in such programs, yet often probation officers, police and judges often remain unaware of the content and structure of such courses. Currently, there are three main types of batterer intervention programs. The feminist approach "...attempt(s) to raise consciousness about society's sex-role conditioning and how it constrains men's behavior, present a model of egalitarian relationships based on trust instead of fear."[313] There are many critics of this approach, many whom argue that it overemphasizes sociocultural factors while ignoring traits of the individual. Another criticism of the feminist approach is that the program conveys information but does not prevent violence. A second methodology of batterer invention is the family systems model. Through this approach every member of the family is looked as contributing to the problem of violence in the family. Intervention by the family systems model teaches improving communication and conflict resolution skills with the focus on solving the problem rather than discovering the causes for the problem. Many women's advocates criticize this approach as "they

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[312] McGuckin Frank McGuckin, Violence in American Society , (NY: H.W. Wilson Co., 1998) 60.

[313] Kerry Murphy-Healy, and Christine Smith, "Batter Programs: What Criminal Justice Agencies Need to Know," (DC: National Institute of Justice, July 1998), online, lexis-nexis, 21 April 2001.

believe it can put the victim at risk if she expresses complaints, prevents a frank exchange between counselor and victim, and is conducive to victim-blaming."[314] The third popular approach for batterer intervention is psychotherapeutic, which "focus(es) on the individual, (and) hold(s) that personality disorders or early traumatic life experiences predispose some people to violence."[315] There are two forms of such intervention, individual and group psychodynamic therapy and cognitive-behavioral group therapy. The psychodynamic method attempts to find the batterers subconscious problem and then to resolve it consciously. Cognitive-behavioral group therapy on the other hand focuses on the conscious and attempts to help batterers modify their thinking and consequently their behavior. Feminists criticize this approach as it "simply address(s) the violent acts and attempt(s) to change them, without trying to solve larger issues of social inequality or delve into deep-seated psychological problems" and because it fails to explain "why batterers are not violent in other relationships."[316] Currently, programs utilizing one or more of these methods are being implemented throughout the country. Perhaps, in a few years, a drop in domestic violence will be witnessed due to the effects of these programs.

Another area where the VAWA has lacked progress is within the civil judicial system. In 1998, Franklin E. Zimring wrote that, "The most important shift in morality for the criminal law in recent years has concerned the treatment of domestic violence cases by the police and the criminal courts,"[317] yet the civil judicial system continues to

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[314] Healy, online

[315] Healy, online.

[316] Healy, online.

[317] Franklin E. Zimring, Gordon Hawkins, Crime Is Not the Problem: Lethal Violence in America, (NY: Oxford University Press, 1997) 164.

fail victims. "Although progress has been made in the criminal justice system, our civil justice system is lagging behind. Women involved in divorce and custody disputes often find judges and child protection agencies which are insensitive to domestic violence and which penalize women who report abuse."[318] At the same time, while "more arrests for domestic violence are being made now than ever before,"[319] many times those arrested are not prosecuted. All too often domestic violence offenders are allowed to return to their homes, unscathed after their wife (or in few cases husband) refuses to press charges. The laws we have on the books allow for the prosecution of offenders; we need to make a greater effort to encourage victims to press charges. In 1997, "the last three US attorneys (had) had undertaken only 37 prosecutions under VAWA's criminal provisions, according to the Justice department. That (was) barely more than one per month for the entire nation."[320] Still, while federal prosecutions may be few, progress has been made since the passage of the VAWA in the criminal justice system. For example, in order to receive STOP grant funding, a state must certify that victims will "bear no costs associated with the filing of criminal charges or issuing or servicing a warrant protection order, or witness subpoena in connection with the prosecution of felony of misdemeanor domestic violence offenses."[321] For many women who cannot take on the financial burden associated with court costs, this provision ensures that wealth is not a factor in prosecution. If true progress is to be made in eradicating domestic violence from the

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[318] Pamela Coukos, "Outlawing Domestic Violence" Civil Rights Journal (Civil Rights Jounral, Fall 1998 v 3 i1) 29. (online lexis-nexis)
[319] Richard L. Davis, Domestic Violence: Facts and Fallacies (CT: Praeger, 1998) 38.

[320] George Lardner Jr., "No Place to Hide," Good Housekeeping v225 n4 (October 1997): 104 (3), online, lexis-nexis, 14 March 2000.

[321] Alice Butler, "Domestic Violence: Data, Programs and Funding," CRS Report (97-675 EPW, Congressional Research Service, 14 December 1998) 5

American landscape, it will be necessary to end the bias in the judicial system that continues to give batterers the benefit of the doubt in the courtroom.

While domestic violence remains a problem in American society, progress has been made in the mere fact that domestic violence is an issue. For, it was "universal until this century, that what goes on within the home (was) exempt from public scrutiny or jurisdiction,"[322] the VAWA changed this attitude when it came to domestic violence. Today, when "what goes on in the home" is violence - it is America's business. The VAWA did not only create national criminal sanctions for those who abuse, it created a new societal norm un-accepting of intimate abuse. This new norm is strengthened every day by the implementation of VAWA programs including the national domestic violence awareness campaign. In fact, "those aware of the domestic violence campaign (are) more likely than those not aware of the campaign to have enlightened attitudes about domestic violence and to have taken action to help reduce domestic violence the previous year."[323] This is promising, as it seems to indicate that as more and more people become aware that domestic violence is a crime, they will in turn hold "enlightened attitudes about domestic violence" and to take action to reduce it. The acceptance of domestic violence was left from a "Roman legacy that justified men subordinating women in marriages shared undoubtedly by most of the civilized ancient world, (and) continued into Christianity."[324] It is only through time and increased awareness that society will be able to overcome this legacy. For, "while we cannot change the past, with the wisdom of

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[322] "Attorney"

[323] Ethel Klein, Jacquelyn Campbell, Esta Soler, and Marissa Ghez. Ending Domestic Violence (Sage Publications, 1997) 164

[324] William Stacey, The Family Secret: Domestic Violence in America (Boston: Beacon Press, 1983) 11.

spirit we can change what it means to us and to our future. With understanding and compassion we can break a cycle of despair, rise above our sorrows, and find a new emotional home from which to create a brighter tomorrow. Each breath we take offers us a chance to create a better life."[325]

The events of 1994 helped to drastically change the way Americans thought about domestic violence. Some critics claim that "Like any major public case, the Simpson case contained the seed to educate the public about serious social issues, albeit in the context of particular facts and circumstances. But those seeds never took root."[326] These critics could not be more wrong. In July 1994, before the public fully began its cultural shift, only 24 percent of women reported they were physically abused by a spouse or boyfriend, by 1995 this percentage had risen to 30.[327] The rise in reporting domestic violence presumably arose out of increased knowledge of the criminality of abuse. The public awareness campaign resulting from the Simpson case, as well as the media coverage of the VAWA, contributed to removing the stigmatism, which enveloped the victims of domestic violence. No longer afraid to speak out many victims came forward, as the public surged to combat the violence. Clearly drastic steps have been made in unlocking the door of silence that surrounded domestic violence for centuries.

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[325] Susan Taylor, taken from "President Bill Clinton to Domestic Violence Victims, East Room the White House." White House Briefing (Federal Information Systems Corporation 2 October 1995)

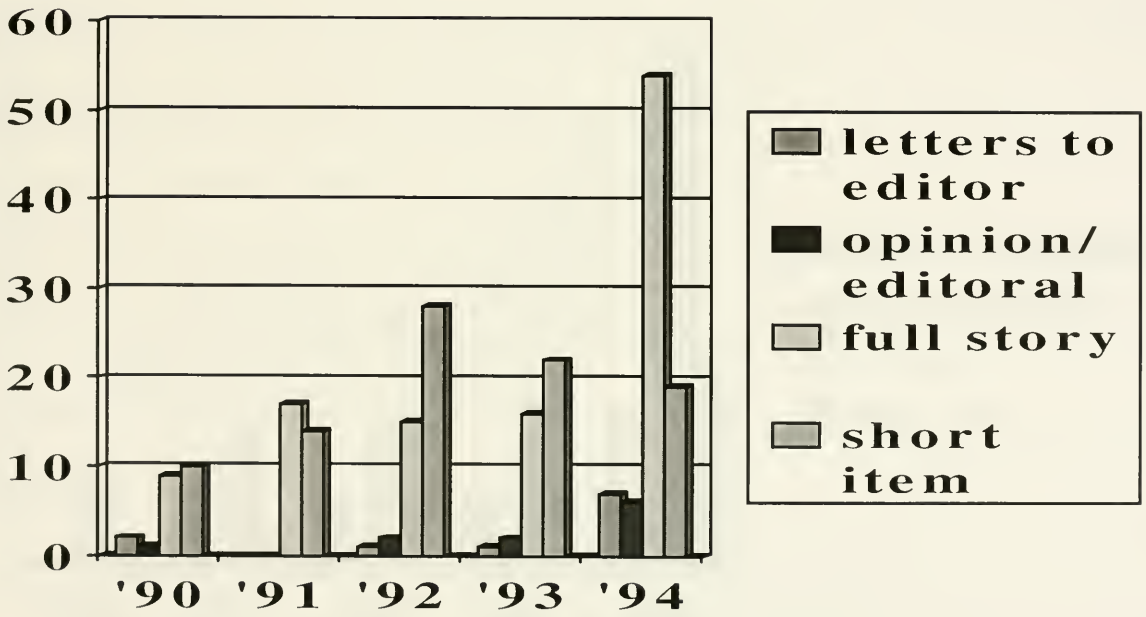
[326] Jeffery Abramson, Postmortem: The O.J. Simpson Case ; *Justice Confronts Race, Domestic Violence, Lawyers, Money and the Media.* Basic Books, 1996 New York: "What Happened to Public Education about Domestic Violence?" Elizabeth M. Schneider, 1996 P77

[327] Klien, table 2.6, 26

Appendix A
Graphs of Stories Covering Domestic Violence

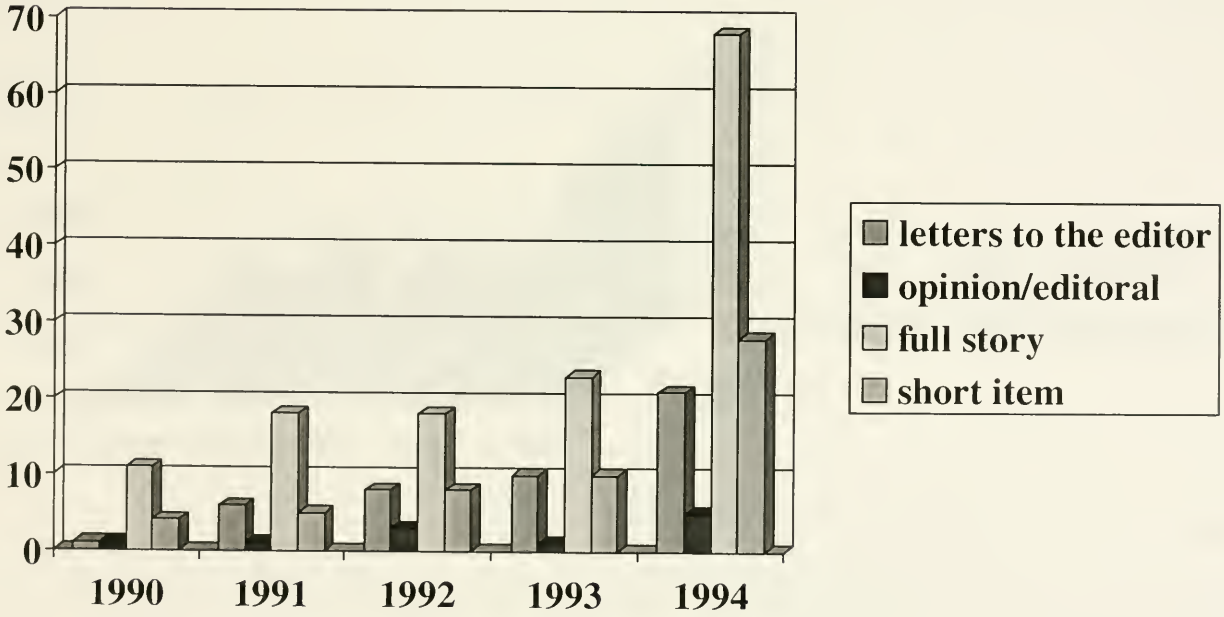
Washington Post

Number of Stories Focusing on Domestic Violence by Type



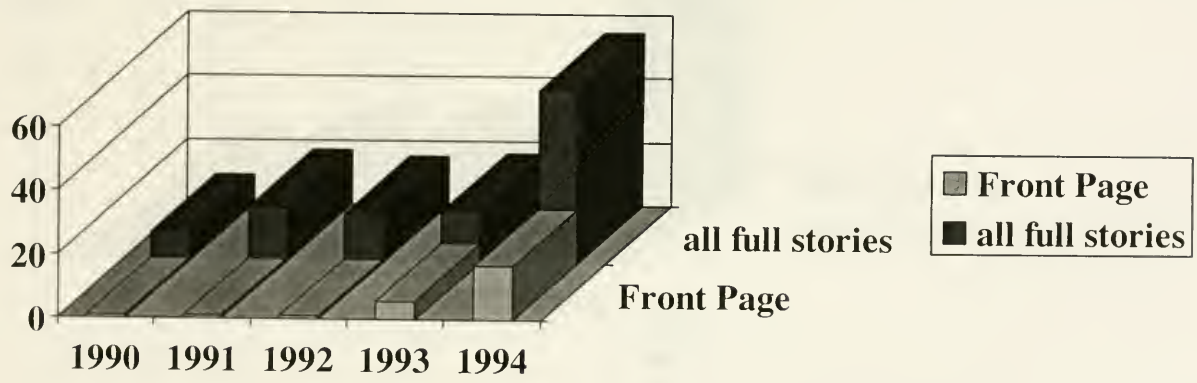
The New York Times

Number of Stories Focusing on Domestic Violence by Type



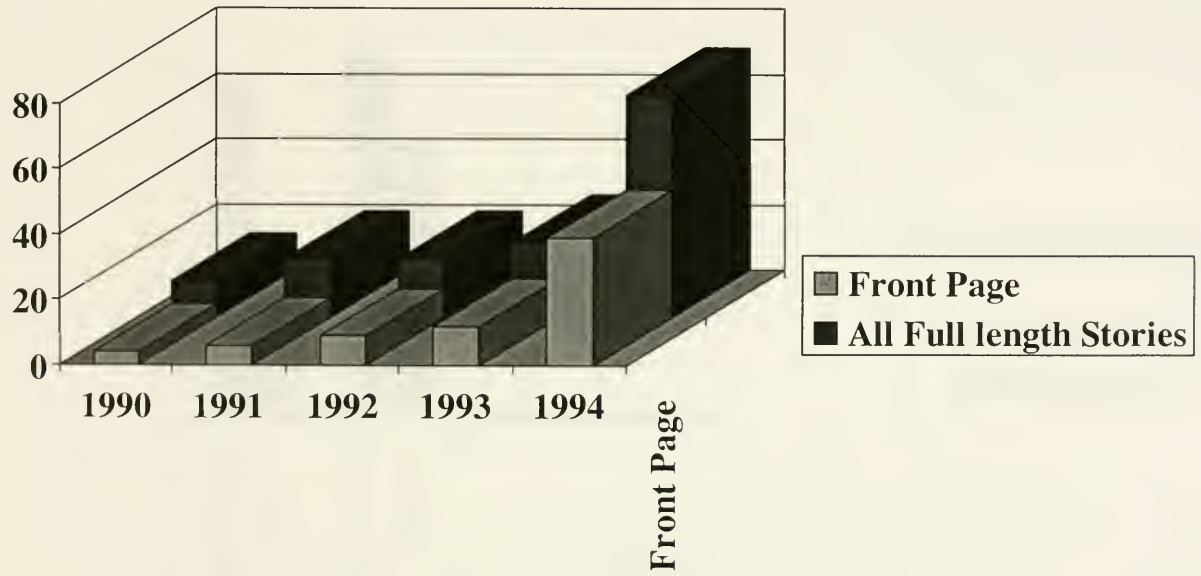
Washington Post

Front Page Stories Compared to the Number of Full Length Stories

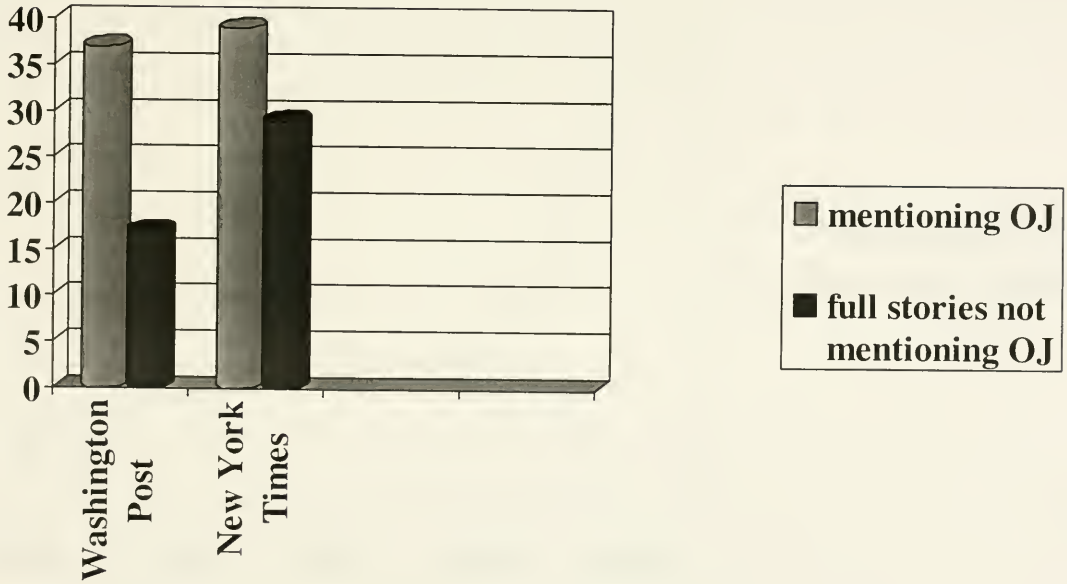


New York Times

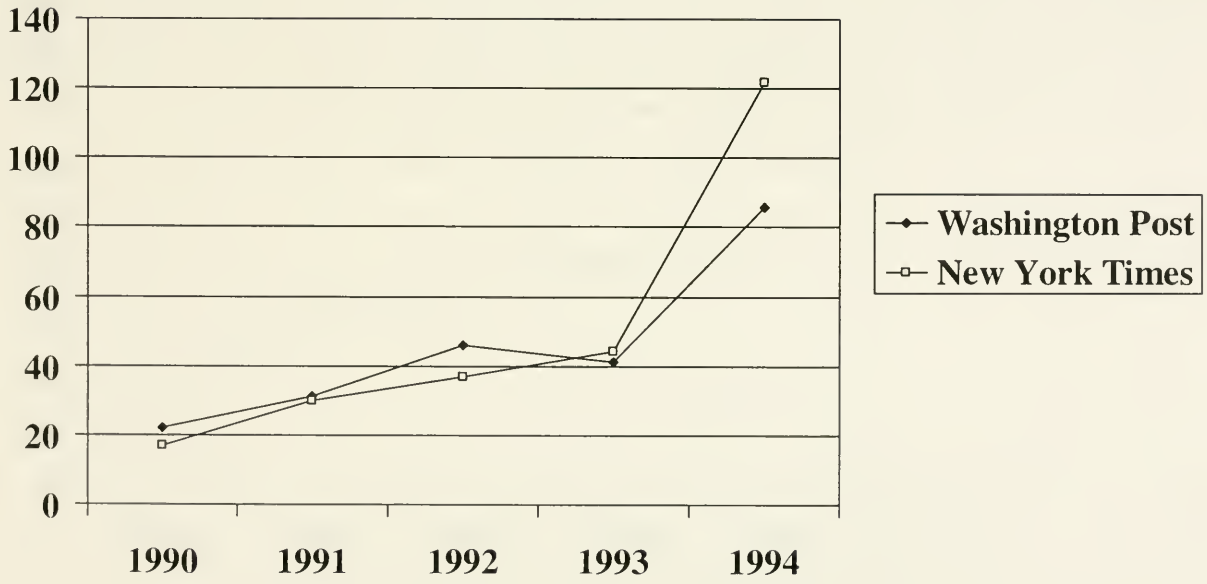
Front Page Stories compared to the number of Full length Stories



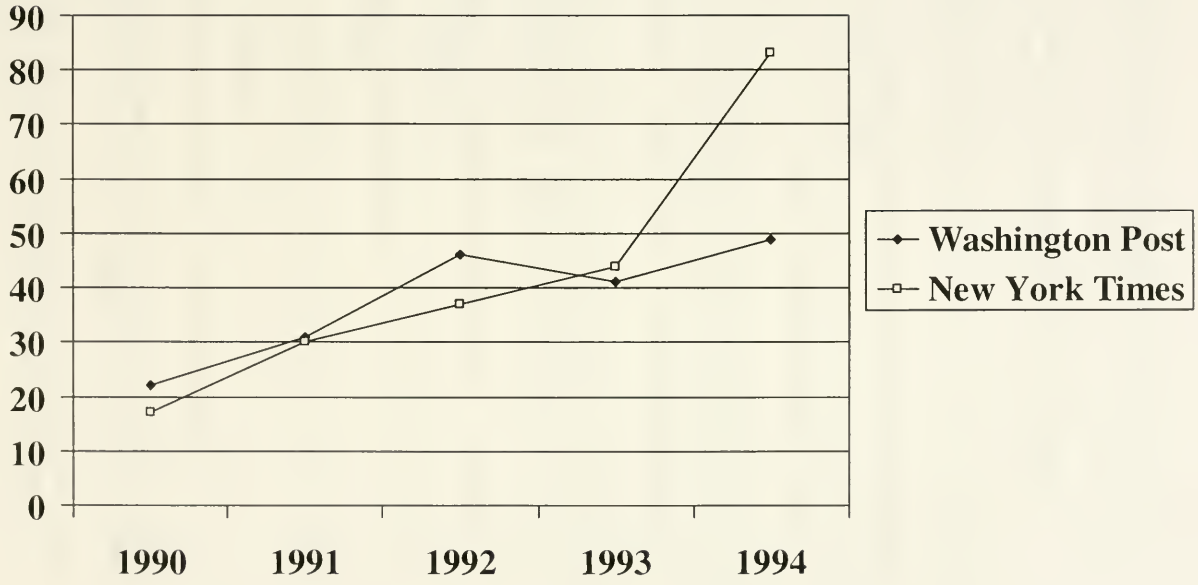
Domestic Violence Stories Mentioning OJ Simpson



Total Number of Domestic Violence Stories in the
Washington Post and New York Times
1990 - 1994



Number of Stories from 1990 – 1994 Without OJ



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